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Report of the International Court of Justice

Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice

Report of the Secretary-General

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I. Introduction

1. The present report is submitted pursuant to paragraph 15 of the Terms of Reference, Guidelines and Rules of the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice (A/47/444, annex),[1] issued at the time of the establishment of the Fund (hereinafter referred to as "the Terms of Reference"), and is subsequent to the report submitted to the General Assembly at its fifty-eighth session under the agenda item entitled "Report of the International Court of Justice" (A/58/295).

II. Mandate

2. The Trust Fund was established in 1989 under the Financial Regulations and Rules of the United Nations following consultations with the President of the International Court of Justice (ICJ). In accordance with the Terms of Reference of the Fund, financial assistance is to be provided to States for expenses incurred in connection with (a) a dispute submitted to the Court by way of a special agreement or (b) the execution of a judgment of the Court resulting from such special agreement.

III. Beneficiaries

3. The Fund is open to all States parties to the Statute of the Court and to non-member States having complied with the conditions stipulated in Security Council resolution 9 (1946) of 15 October 1946.

4. During the period under review (1 July 2003 to 30 June 2004), the Fund received one joint application from Benin and the Niger to defray the expenses incurred in connection with the submission of their boundary dispute to the Court.

5. On the recommendation of the Panel of Experts set up in accordance with paragraph 9 of the Terms of Reference of the Fund, I decided, on 24 May 2004, to award financial assistance in the amount of US$ 350,000 to each applicant, the purpose of which was to defray the following expenses: costs of agents, counsel, experts or witnesses, staff costs, costs of reproduction of maps and production of technical documents, expenses incurred in connection with the memorial, counter-memorial and replies, costs of legal research, and costs incurred in connection with oral proceedings and the demarcation of the frontier between Benin and the Niger.

6. It should be noted that the recommendation of the Panel of Experts and my decision to award financial assistance were made bearing in mind that the Fund has limited assets. They were also governed by the need to accommodate potential applications that may be made in the near future.

IV. Contributions

7. Voluntary contributions to the Fund may be made by States, intergovernmental organizations, national institutions and non-governmental organizations, as well as natural and juridical persons.

8. During the period under review, three States contributed to the Fund, as follows:

State	*Amount (United States dollars)*	*Financial year*
Finland	12 056.00	2003
Norway	12 584.00	2003
Mexico	10 000.00	2004
Norway	25.00	2004
Total	**34 665.00**	

9. As at 30 June 2004, the total balance of the Fund was US$ 1,936,583. This amount excludes awards that have already been paid.

V. Needs assessment

10. The Charter of the United Nations recognizes the settlement of international disputes "by peaceful means, and in conformity with the principles of justice and international law" as one of the basic purposes of the United Nations and as an essential tool for the maintenance of international peace and security. ICJ is the principal judicial organ of the Organization. As noted above, the Fund was created with a view to facilitating a decision by parties to a dispute to seek judicial settlement of their dispute through the Court. As noted in my previous reports, despite numerous appeals, the Fund has had a decreasing level of resources since its inception. While I am grateful to those Member States which contributed during the period under review, I note that the number of contributions remains low. Thus, I strongly urge all States and other relevant entities to give serious consideration to making contributions to the Fund, not only in a substantial manner but also on a regular basis.

VI. Revision of the Terms of Reference of the Fund

11. As indicated in my previous report, with a view to encouraging States to apply for grants from the Fund, a review of the existing procedures governing the use of the Fund has been conducted by the Office of Legal Affairs, in consultation with the Registry of the Court and the Controller.

12. As a result of this review, the Terms of Reference of the Fund were revised. The purpose of the amendments introduced is twofold.

13. They first aim at expanding the eligibility rules set forth in paragraph 6 of the Terms of Reference, under which, to the present date, applications for financial assistance may be submitted by States which lack the necessary financial resources in connection with either a dispute submitted to the Court by way of a special agreement or in connection with the execution of a judgment.

14. Under paragraph 6 of the revised Terms of Reference, applications may now also be submitted in connection with (a) cases referred to the Court by one party

pursuant to a jurisdictional clause in a treaty or convention in force, or matters where the jurisdiction of the Court is "specially provided for in the Charter of the United Nations" (ICJ Statute, Article 36, para. 1) and (b) cases brought to the Court pursuant to its optional jurisdictional clause (ICJ Statute, Article 36, para. 2), provided such cases have reached the merits stage of the proceedings, either after preliminary objections to jurisdiction or admissibility have been either rejected by the Court or withdrawn by the party or parties concerned, or when no such objections have been raised and the applicant has undertaken not to file any.

15. Furthermore, under paragraphs 13 and 14 of the revised Terms of Reference, applicant States may seek to obtain, once an award is granted, an advance not to exceed 50 per cent of the amount of the awarded financial assistance to cover actual approved expenditures.

16. The revised Terms of Reference, the text of which is contained in the annex to the present report, will take effect from the date of issuance of the report. It is my sincere hope that the above-mentioned amendments will assist in fully meeting the needs of all States wishing to call upon the Court to settle their disputes peacefully, and encourage them to do so, thus fulfilling the objectives that motivated the establishment of the Fund in 1989.

VII. How to contribute?

17. Voluntary contributions to the Fund can be made by bank transfer or by cheque to the order of the United Nations. Cheques should be sent to:

Cashier's Office
United Nations
New York, NY 10017
United States of America

The cheque should indicate that it is for the "ICJ Trust Fund", account code TJA.

18. For any additional information, please contact the Office of the Legal Counsel, Office of Legal Affairs. Telephone: + 1 212 963 5350; fax: + 1 212 963 6430.

Notes

[1] Available also on the web site that provides access to information relevant to the Fund: http://www.un.org/law.trustfund/trustfund.htm.

Annex

Revised Terms of Reference, Guidelines and Rules of the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice

Reasons for establishing the Trust Fund

1. The United Nations has a special role in the maintenance of peace and security. The Charter of the United Nations recognizes settlement of international disputes "by peaceful means, and in conformity with the principles of justice and international law" as a basic purpose of the United Nations and as an essential tool for the maintenance of international peace and security. The importance of peaceful settlement of disputes has been reiterated in numerous legal instruments of the United Nations, including the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations[a] of 24 October 1970 and the Manila Declaration on the Peaceful Settlement of International Disputes[b] of 15 November 1982. In the Manila Declaration, the General Assembly stressed once again that States should be encouraged to settle disputes by making full use of the provisions of the Charter of the United Nations, in particular those concerning the peaceful settlement of disputes. The Assembly also stated that recourse to judicial settlement of legal disputes, particularly referral to the International Court of Justice, should not be considered an unfriendly act between States.

2. The Court is the principal judicial organ of the United Nations. Its judgments represent the most authoritative pronouncement on international law. As follows from Article 36, paragraph 3, of the Charter, the Court is also the principal organ for resolving legal disputes between States. The Secretary-General, as the Chief Administrative Officer of the Organization, has, therefore, a special responsibility to promote judicial settlement through the Court.

3. Legal disputes may arise in various parts of the world over a wide variety of issues. There are occasions where the parties concerned are prepared to seek settlement of their disputes through the International Court of Justice, but cannot proceed because of the lack of legal expertise or funds. There may also be cases where the parties are unable to implement a decision of the Court for the same reasons. In all such cases, the availability of funds would advance the peaceful settlement of disputes.

4. The cost which may be incurred by proceedings of the International Court of Justice is a factor which may in some instances discourage States from resorting to it. In arbitration, the parties bear the costs of the arbitrators and the maintenance of the tribunal (e.g., the registry etc.). The administrative costs of the Court are borne by the United Nations. However, as in arbitration, the parties must remunerate their counsel, reimburse, where applicable, the costs of their agents, experts and witnesses and bear the expense of the preparation of memorials and counter-memorials. The total costs may be considerable. Thus, cost considerations may be a factor in the decision whether or not to refer a dispute to the Court. The availability of funds would therefore be helpful for States which lack the necessary funds.

5. The United Nations has extensive experience in raising and managing voluntary contributions for purposes of providing assistance to countries for their industrial and economic development. This experience could be utilized in raising and managing financial resources which would be used to assist States in obtaining the necessary legal and other expertise to facilitate resolution of their disputes by peaceful means through the International Court of Justice.

Object and purpose of the Trust Fund

6. The Trust Fund (hereinafter referred to as "the Fund") is established by the Secretary-General under the Financial Regulations and Rules of the United Nations in accordance with the terms and conditions specified in the present Terms of Reference, Guidelines and Rules (hereinafter referred to as "the Terms of Reference"). The purpose of the Fund is to provide financial assistance to States for expenses incurred in connection with:

(a) A dispute submitted to the International Court of Justice under Article 40, paragraph 1, of its Statute:

(i) By way of a special agreement on the basis of Article 36, paragraph 1, of the Statute;

(ii) By way of an application on the basis of Article 36, paragraphs 1 and 2, of the Statute provided that:

(a) In a case in which preliminary objections have been filed by one or both parties to the case under Article 79 of the Rules of the Court, such objections have been either rejected by the Court or definitively withdrawn by the party or parties concerned;

(b) In a case in which no preliminary objections have been filed, the State requesting financial assistance gives the Secretary-General an undertaking not to present any preliminary objection under Article 79 of the Rules of the Court and to plead the case on the merits; such an undertaking shall be duly notified to the Court by the Secretary-General;

(b) The execution of a Judgment of the International Court of Justice.

Contributions to the Fund

7. The Secretary-General shall invite States, intergovernmental organizations, national institutions and non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the Fund.

Application for financial assistance

8. Subject to the requirements of paragraph 6 of the Terms of Reference, an application for financial assistance from the Fund may be submitted by any Member State of the United Nations, any other State party to the Statute of the International Court of Justice or any State not party to the Statute of the Court having complied

with Article 35, paragraph 2, of the Statute (hereinafter referred to as "the requesting State"). The application shall be accompanied by:

(a) If financial assistance is sought under paragraph 6 (a) (i) of the Terms of Reference, a copy of the special agreement;

(b) If financial assistance is sought under paragraph 6 (a) (ii) (a.) of the Terms of Reference, a copy of the judgment of the Court rejecting preliminary objections in the case, and/or a copy of a document confirming the withdrawal of preliminary objections, as appropriate;

(c) If financial assistance is sought under paragraph 6 (a) (ii) (b.) of the Terms of Reference, the undertaking referred to in that paragraph;

(d) An itemized statement of the estimated costs for which financial assistance is requested from the Fund;

(e) An undertaking that the requesting State shall:

(i) Supply a final statement of account providing details of the expenditures made from the approved amounts, to be certified by an auditor acceptable to the United Nations;

(ii) Refund, where applicable, any unused advance which may have been made to it;

(f) An indication by the requesting State of the amount of the advance it wishes to receive under the provisions of paragraph 13 of the Terms of Reference.

Establishment of a Panel of Experts

9. Once the request for financial assistance is determined to be admissible, the Secretary-General shall establish a Panel of Experts composed of three persons of the highest judicial and moral standing. The task of the Panel shall be to examine the application in order to recommend to the Secretary-General the amount of the financial assistance to be awarded, the amount of the advance to be allocated under the provisions of paragraph 13 of the Terms of Reference and the types of expenses to be covered by the assistance: preparation of memorials, counter-memorials and replies; fees for counsel and payment, where applicable, of the expenses of agents, experts or witnesses; legal research fees; costs related to oral proceedings (e.g., interpretation in the case of languages other than English and French); expenses of producing technical materials (e.g., reproduction of cartographic evidence) and costs relating to the execution of a judgment of the Court (e.g., demarcation of boundaries).

10. The deliberations of the Panel of Experts shall be conducted in strict confidentiality.

11. In considering an application, the Panel of Experts shall be guided solely by the financial needs of the requesting State and the availability of funds.

12. Travel expenses and subsistence allowance are payable to members of the Panel of Experts from the Fund.

Granting of assistance

13. On the basis of the evaluation and recommendations of the Panel of Experts, the Secretary-General shall make a final determination regarding the financial assistance to be awarded from the Fund and the amount of the advance to be allocated. The latter is not to exceed 50 per cent of the awarded financial assistance. Payments of the advance and of the final payment of the awarded financial assistance shall be made by means of a wire transfer from the Secretary-General's Trust Fund. The final payment shall be made against receipts evidencing actual expenditures for the total amount of the approved costs.

14. The requesting State shall not be eligible to receive the final portion of the award, and shall be liable for the reimbursement of the advance, if the final payment of the award is not claimed:

(a) Within two years from the date of the judgment, in cases referred to in paragraph 6 (a) above; or

(b) Within a reasonable period of time from the date of the judgment which should, under no circumstances, exceed five years, in the case referred to in paragraph 6 (b) above.

Application of the Financial Regulations and Rules of the United Nations

15. The Financial Regulations and Rules of the United Nations shall apply to the administration of the Trust Fund. The Fund shall be subject to the auditing procedures provided therein.

Reporting

16. An annual report on the activities of the Fund shall be made to the General Assembly.

Implementing office

17. The Office of Legal Affairs shall be the implementing office for the Trust Fund and shall provide the services required for the operation of the Fund.

Revision

18. The Secretary-General shall revise the above provisions if circumstances so require.

Notes

[a] General Assembly resolution 2625 (XXV), annex.

[b] General Assembly resolution 37/10, annex.

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Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Report of the Office of Internal Oversight Services on the review of the operations and management of United Nations libraries

Note by the Secretary-General*

1. Pursuant to General Assembly resolutions 48/218 B of 29 July 1994, 54/244 of 23 December 1999 and 58/270 of 23 December 2003, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the review of the operations and management of United Nations libraries.

2. The Secretary-General takes note of the findings and generally concurs with the recommendations made in the report, which will contribute to more comprehensive cooperation among United Nations libraries and to increased efficiency of their operations.

* The present report could not be submitted prior to the deadline because the review had not been concluded at that time.

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Report of the Office of Internal Oversight Services on the review of the operations and management of United Nations Libraries

Summary

In compliance with the request of the General Assembly, as contained in its resolution 58/270, the Office of Internal Oversight Services (OIOS) conducted a review of the operations and management of United Nations libraries from March to May 2004. The objective of the review was to assess the staffing requirements for United Nations libraries in the light of technological advances in the delivery of information services. The review focused on the Dag Hammarskjöld Library (DHL) and the Library of the United Nations Office at Geneva (UNOG Library), which in the aggregate account for 75 per cent of the staff of United Nations libraries. OIOS also surveyed six other United Nations libraries to determine the level of their automation and the scope and nature of their operations.

An accurate assessment of the staffing requirements of United Nations libraries is not possible at this stage because the libraries have not fully adapted their operations to the use of advanced technologies and the Internet. DHL and the UNOG Library have already implemented state-of-the-art automation systems and have begun providing electronic access to their bibliographic databases to users throughout the world. However, most of the other libraries generally lag behind in introducing more advanced technology in their operations owing to their small size and budgetary constraints. A comprehensive automation strategy that encourages harmonization and resource-sharing would ensure quicker and more efficient implementation of advanced technology by the other libraries in the United Nations system.

Under new management, DHL is moving its focus from "collections to connections", where libraries act as facilitators rather than gatekeepers of information and knowledge. This new approach, if adopted by all libraries, will require them to redirect their activities in order to better organize and disseminate the information.

In 2003, the UNOG Library completed a massive retrospective conversion of its old card catalogues and is now considering the acquisition of digitization capability in order to begin transferring older documents to electronic formats. DHL currently uses large staff resources for digitization, retrospective conversion of old card catalogues and indexing of pre-1979 documents. This process should be treated as a separate project with a time frame and resources.

The weakness of the performance management systems also impeded an assessment of staffing requirements of United Nations libraries. Common workload and productivity standards and data that could be used to assess the staffing requirements were not properly developed. The review identified large disparities in productivity levels between DHL and the UNOG Library, which indicate the need for harmonization of working methods and performance management.

The establishment of the Steering Committee for the Modernization and Integrated Management of United Nations Libraries in 2003 under the leadership of

the Department of Public Information was a major step towards implementing a more comprehensive United Nations library policy and organization. In the view of Office of Internal Oversight Services, the Steering Committee can be entrusted with the preparation of a new United Nations library policy, which should be considered and approved by the General Assembly. In order to achieve its goals, the Steering Committee needs to prepare a timetable for expected results in its action plan. The action plan should be supported with necessary resources. The libraries of the United Nations specialized agencies should be invited to participate in the work of the Steering Committee in order to attain a more comprehensive modernization and integration of the United Nations libraries.

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I. Introduction

1. In compliance with the request of the General Assembly contained in its resolution 58/270, the Office of Internal Oversight Services (OIOS) conducted a review of the operations and management of United Nations libraries from March to May 2004. The objective of the review was to assess the staffing requirements for United Nations libraries in light of technological advances in the delivery of information services. The audit focused on the Dag Hammarskjöld Library (DHL) and the Library of the United Nations Office at Geneva (the UNOG Library), which in the aggregate account for 75 per cent of staff resources of the United Nations libraries.[1] The table below shows the approved staff levels of the United Nations libraries for the biennium 2002-2003. It includes the United Nations Yearbook Section (11 posts), which administratively reports to DHL, but which does not perform library-related functions.

Library	*D-1/2*	*P-5*	*P-4/3*	*P-2/1*	*GS/LL*	*Total*	*%*
DHL	1	4	29	19	61	**114**	**53**
UNOG	1	2	6	10	29	**48**	**22**
UNON	0	0	0	1	1	**2**	**1**
ECA	0	0	2	1	10	**13**	**6**
ECLAC	0	0	1	3	10	**14**	**7**
ESCAP	0	0	1	1	10	**12**	**6**
ESCWA	0	0	1	0	4	**5**	**2**
ICTR	0	0	1	4	2	**7**	**3**
Total	**2**	**6**	**41**	**39**	**127**	**215**	**100**

2. The review included interviews with staff and management, workload and productivity analyses and reviews of pertinent documents maintained by DHL and the UNOG Library. OIOS also surveyed six other United Nations libraries to determine the level of their automation and the scope and nature of their current operations. The draft report was discussed with officials of the Department of Public Information and the UNOG Library. Their comments are identified in italics in the present report.

3. While the review was in progress, the Department of Public Information appointed a new Head Librarian of DHL. UNOG had appointed a new Head Librarian of its library a year earlier. Both DHL and the UNOG Library, under new management, are increasing their efforts to identify more opportunities for using advanced technologies. There are plans at DHL and UNOG to move from focusing on *collections to connections*, where libraries act as facilitators rather than gatekeepers of information and knowledge. UNOG initiated a strategy that puts emphasis on providing enhanced services to the Library's institutional core users.

4. DHL informed OIOS that *the new approach would require all libraries to redirect their activities in order to better assist the Secretariat in the organization, use and dissemination of the information. Consequently, that would impact staffing requirements, staff levels, training and development.*

II. Organization of United Nations libraries

5. The operations and management of the libraries are governed by the United Nations library policy and organization (the Policy), endorsed by the General Assembly in 1949 (see A/C.5/298). The policy calls for coordination of library work in the United Nations and the specialized agencies, so far as feasible, through the exchange of information, publications and staff, through cooperative selection, indexing and cataloguing and through establishment of a union catalogue and register of research and bibliographical activities. This policy covers DHL and the UNOG Library only. The other United Nations libraries were established to support the programmes of the United Nations and the research needs of users in their respective areas of operations. The United Nations libraries thus perform a full range of, and sometimes duplicate, functions in the areas of acquisition, indexing, cataloguing and bibliographical and reference assistance to library users.

6. In compliance with the request of the General Assembly in its resolution 56/253 of 24 December 2001, the Secretary-General issued his report on the review of the United Nations libraries (A/AC.198/2004/4). The report addressed the issue of duplication of functions and showed the need to facilitate interdependency and to foster initiatives to create a dynamic, synergistic network of library services. It defined the purpose of the United Nations library services, their primary users and the relationships and roles of the libraries, including the best way to achieve their mandates.

7. The mandate of the Steering Committee includes the responsibility to discuss and agree upon policies. Working through subcommittees comprising representatives from United Nations libraries, the Steering Committee has made considerable strides in identifying and agreeing on major issues. However, the Steering Committee lacks the authority to change the United Nations library policy. In the view of Office of Internal Oversight Services, the Steering Committee should be tasked with proposing a new United Nations library policy, on the basis of its deliberations, for approval by the General Assembly. The new United Nations library policy to be developed by the Steering Committee would address the future role of the United Nations libraries in light of advanced technologies and the Internet.

8. The absence of an effective coordinative mechanism has precluded the achievement of the level of coordination envisaged by the United Nations library policy and organization. The policy does not assign responsibility for the creation and administration of the network required to ensure effective collaboration. The new policy should clearly define the members of the United Nations library system. In the view of Office of Internal Oversight Services, the libraries of the United Nations specialized agencies should also be a part of the Steering Committee, as envisaged by the original United Nations library policy and organization. The new policy should also address issues of mandate and funding of the Steering Committee. Presently, biennial funding requirements of the Steering Committee are estimated at $127,000 for, inter alia, meetings of committee members (videoconferencing), data-processing equipment and rental of broadcast facilities.

9. In the view of Office of Internal Oversight Services, the establishment of the Steering Committee in 2003, which includes all heads of the United Nations libraries referred to in the table in paragraph 1 above, represented a major step towards comprehensive implementation of the United Nations library policy and organization. The need for a more comprehensive mechanism was first indicated in 1992 by the Joint Inspection Unit in its report on cooperation and management of the libraries of the United Nations system. The Joint Inspection Unit highlighted "the necessity of creating an inter-library panel which would help develop a cooperative and effective network of United Nations system libraries".[2] Although the proposal was generally supported by the Secretariat and a majority of the specialized agencies, it was not implemented owing to a lack of commitment on the part of certain specialized agencies.

10. During the current review, DHL expressed concern that *the inclusion of the libraries of specialized agencies in the Steering Committee would be problematic since the mandates of those other organizations were considerably different. In addition, there was already an inter-agency group which was fulfilling the coordinating role for libraries of the United Nations system, the Knowledge Sharing and Information Management Inter-agency Group*. OIOS noted that the Group meets once a year and that it does not have authority similar to that of the Steering Committee. Therefore, it cannot ensure a comprehensive modernization of the United Nations libraries.

11. The Steering Committee has developed an action plan detailing the expected results of its activities. However, the action plan does not contain a timetable. Therefore, there is a risk that the Steering Committee may fail to achieve its goals as set out in the plan in a timely manner. Moreover, the Committee runs the risk of failure owing to resource constraints. In order to ensure the timely achievement of its goals, the Steering Committee needs to establish and comply with a timetable for reaching the expected results in its action plan. While the present review was in progress, the Committee on Information, at its twenty-sixth session held from 26 April to 7 May 2004, encouraged the member libraries to coordinate closely and to establish time frames for the fulfilment of the programme of work. The action plan should also include the necessary resources for its implementation.

12. *Department of Public Information management concurred with the need for a timetable and advised that in the last meeting of the Steering Committee, held in June 2004, it had been decided that a new subcommittee on strategic directions for United Nations libraries would be established.*

III. Automation of United Nations libraries

13. Automation of operations has evolved in DHL and the UNOG Library since the 1970s. DHL first automated cataloguing, indexing, acquisition and inter-library loan operations during the period 1978-1980.[3] The automated systems were operated independently of each other and functioned in a mainframe computing environment with only a few workstations. Professional staff prepared hard copy input documents and keyboarding was done by a small number of designated General Service staff. Controls over operations were manual and thus cumbersome and prone to errors. During the period 1992-1997, DHL implemented Dynix Horizon, the Integrated Library Management System (ILMS) currently in use. ILMS contains several

modules — acquisition, serials control, cataloguing and circulation control — interconnected to enhance management of library materials. In 1999, the UNOG Library implemented Endeavour Voyager, a second generation ILMS, replacing URICA, the first generation ILMS implemented from 1990 to 1992. New releases of the current systems are regularly installed, thereby ensuring the use of state-of-the-art technology in library operations and management.

14. Other United Nations libraries are lagging behind in the implementation of advanced technology. The UNON and ECLAC libraries are currently considering the acquisition of their own integrated library management systems. ECA recently purchased Dynix Horizon, a system similar to the one used by DHL since 1992. ESCWA implemented OLIB (a separate library management system) in late 2000, replacing the ISIS (Integrated Scientific Information System).[4] ECLAC, ESCAP and ICTR use different versions of CDS/ISIS (DOS and Windows). Each library uses limited functionalities of ISIS. Some libraries use only the cataloguing, authority control and online public access catalogue modules, while others use the acquisitions, serials control and circulation modules.

15. In its first report, dated 12 June 2003, the Subcommittee on Web Pages and Internet Products and Hardware/Software of the Steering Committee correctly attributed the disparities in the automation among the libraries to their size, staff, budget and mandates. In the view of Office of Internal Oversight Services, the constraints can be overcome by pursuing a clearly defined automation strategy for the United Nations libraries that encourages harmonization. Instead of each library acquiring its own system, the two largest libraries could offer their applications to the other libraries. The UNOG Library is already offering its Voyager ILMS as the backbone infrastructure to several libraries of other offices in Geneva and Vienna and thus has the appropriate expertise that could be leveraged by the Steering Committee for achieving greater harmonization of automated systems. In addition, the United Nations System Electronic Information Acquisition Consortium was used for joint purchasing of online information products and has proven that harmonization and resource-sharing can be achieved. The Consortium comprises all United Nations libraries, including those of specialized agencies. It can also be used as a model for a network that ensures harmonization of automation systems.

IV. Additional automation needed for specific operations

16. OIOS reviewed three major operations — indexing, cataloguing and reference services — which account for nearly all the professional staff allocated to DHL and the UNOG Library, with a view to determining any additional automation requirements.

A. Indexing and cataloguing

17. Integrated library management systems have helped to improve indexing and cataloguing efficiency and quality. The purpose of cataloguing and indexing is to create tools that permit users to identify and access the information available to them. The bibliographic records are organized in databases and used by the library staff and clientele. Cataloguing applies to monographs (books), periodicals, government documents, selected gifts of printed materials and selected documents

of the specialized agencies of the United Nations. Copy cataloguing is a process whereby cataloguers search the databases of other libraries and copy the bibliographic records of monographs already prepared by those libraries in order to shorten the cataloguing time. Integrated library management systems have also enhanced the shared indexing arrangements that have existed between DHL and the UNOG Library, preventing duplication of indexing efforts. When preparing bibliographies of United Nations documents, DHL simultaneously prepares summaries and annotations and extracts other pertinent data used in preparing indexes to the proceedings of the General Assembly, Security Council and Economic and Social Council, which are periodically published by DHL and used by its clientele. The integrated library management systems also permit multitasking and eliminate the need for professional indexers to prepare hardcopy input documents.

18. The above-mentioned improvements have enhanced reliability of the databases and the libraries' capacity to build large databases. In 2003, with the completion of the retrospective conversion of the old card catalogue, the UNOG Library is now offering a current catalogue covering the period from 1987 to date, the historical catalogue covering the period from 1919 to 1986 and the United Nations documents catalogue covering the period from 1979 to date. The DHL has developed a bibliographic file containing citations to United Nations documents and publications issued by United Nations bodies worldwide, covering the period from 1979 to date and the index to speeches file, containing citations to speeches made in the General Assembly, beginning with its thirty-eighth session, the Security Council, beginning with its thirty-eighth session, the Economic and Social Council, beginning in 1983, and the Trusteeship Council, beginning with its fifteenth special session. Voting records have been made available in electronic format for all resolutions which were adopted by the General Assembly, beginning with its thirty-eighth session, and the Security Council, beginning with its first year (1946).

19. Additional efficiency can be achieved by strengthening networks among the libraries. A union catalogue, the United Nations System Shared Cataloguing and Public Access System facilitates shared indexing. However, the three smaller libraries (ESCWA, ICTR and ECLAC) that responded to the OIOS survey do not participate in the network since their cataloguing systems did not comply with international standards at the time when the shared system was implemented. As a result, there is a duplication of certain functions. For example, DHL indexes ESCWA documents already indexed by the ESCWA library. OIOS also noted the existence of other networks at local levels that could be used for copy cataloguing. These include the UNOG Library's network with libraries of some of the other United Nations offices in Geneva. However, DHL and the UNOG Library prepare their own bibliographic records of documents originating from the specialized agencies.

20. Currently, indexing involves manual inputting into the databases of certain standard datasets, such as document titles, symbols and dates. At DHL, this task is assigned to staff whose duties include what is referred to as pre-indexing. A professional indexer begins to process a document after the pre-indexing is performed. OIOS observed that the pre-indexing function could be automated, but this requires the collaborative efforts of the libraries and the Department for General Assembly and Conference Management and the Official Document System (ODS) office. Presently, DHL is collaborating with the Department to standardize

document symbols in the various electronic systems (electronic Documents Registration, Information and Tracking System, or e-DRITS, ODS and United Nations Bibliographic Information System (UNBIS)) as well as to devise measures to provide titles in the six official languages in those databases. The UNOG Library also initiated contact with conference services to standardize document symbols. In the view of Office of Internal Oversight Services, the objectives of this collaboration should include the automation of the pre-indexing functions.

B. Reference and research services

21. The report of the Secretary-General on the modernization and integrated management of United Nations libraries and in-depth review of library activities (A/AC.198/2004/4) provides a comprehensive list of current and future library services. OIOS noted that since the late 1990s, DHL and the UNOG Library have employed Internet technology, providing worldwide access to their bibliographic databases. Helped by the establishment of the Steering Committee in 2003, the United Nations libraries now operate joint web pages — the most notable being the United Nations Libraries Research Gateway. Through this Gateway, a researcher can access the products and services offered by any member-library.

22. However, the extent to which advanced technology is used in delivering information services is limited by the number of documents available in electronic formats. Although the libraries have made progress in building large databases, they are still behind in the transfer to electronic formats of the catalogues and documents pre-dating automation. The conversion exercises have begun but are progressing slowly. At the current rate, these exercises will not be completed in the foreseeable future, thus limiting electronic access to documents.

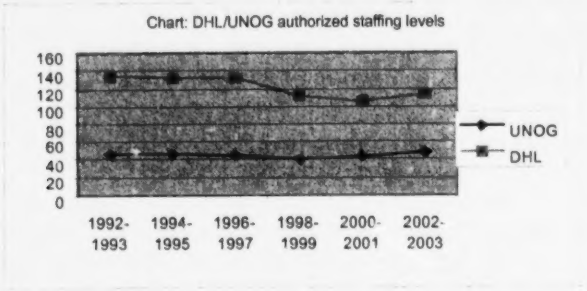
V. Assessment of staffing requirements

23. The staffing requirements for United Nations libraries, in the light of advanced technologies, are difficult to assess at this stage. Automation and the use of the Internet have resulted in some tangible gains in terms of improved delivery of library services. However, there has been no significant change in the staffing levels that could be entirely attributed to the implementation of advanced technology. An inconsistent performance management system and the fact that the libraries have not fully adapted their operations to advanced technologies and the Internet affect the efficiency of their operations. Limited career opportunities have apparently impeded higher productivity. As mentioned in paragraph 3 above, UNOG and the Department of Public Information recruited new head librarians who have indicated their desire to identify and address the challenges posed by advanced technologies in their operations. Some of the areas requiring the attention of the new management are discussed below.

A. Changes in staffing levels since automation

24. The staffing levels of DHL have changed since the implementation of advanced technology in library operation (see chart). However, there is no clear link between the use of advanced technology and the changes in the staffing levels. The

number of authorized posts at DHL dropped by 26, from 132 during the period 1992-1997 to 106 in 2000-2001.



25. DHL could not provide evidence of the impact of the introduction of its integrated library management system, the final phase of which was completed in the biennium 1994-1995. After the 26 posts were abolished, six additional posts were transferred from DHL with the Cartographic Section and three more posts were redeployed to other parts of the Department of Public Information. In November 2001, the United Nations Yearbook Section, which consists of 11 posts, was attached administratively to DHL. *DHL explained that the implementation of an automated library management system provided clear gains for access to information in the DHL collections. However, it did not have a significant impact on staffing levels. Automation was the first phase of change for DHL which, under new management, was more focused on developing its methods, activities and services beyond the traditional library setting. That would assist the Organization to manage its information more effectively and to coordinate knowledge-sharing initiatives.*

26. Following the implementation of the current system in 1999, the staffing level of the UNOG Library has increased slightly since 1998-1999, owing mainly to the addition of the archival and microfiche functions. OIOS noted that the UNOG Library first implemented an integrated library management system and streamlined its operations in the early 1970s (see para. 13 above). However, there is no clear evidence indicating that these actions resulted in staff reductions.

27. In the opinion of Office of Internal Oversight Services, the absence of correlation between automation of the library processes and staffing resources resulted from insufficient planning. The plans to introduce the automated processes should have contained clear indicators of how the automation would affect the resource allocation and the level and quality of services to library clients. Had this been the case, the introduction of the new automated systems could easily be linked to the increased efficiency of the library operations.

B. Productivity assessment

28. OIOS analysed productivity statistics relating to three major library operations — indexing, cataloguing and reference services. The results of the analyses showed disparities in productivity levels between DHL and the UNOG Library. These disparities indicate certain weaknesses in performance management.

There is a need for common workload and productivity standards/goals in the major areas of the libraries' operation, e.g. reference and research assistance, indexing, cataloguing, binding, shelving, circulation control, microfiche and digitization. Both libraries maintained similar productivity goals for indexing operations only. However, the libraries did not use them for performance monitoring because, as some managers believe, these goals did not take into consideration the true complexities of indexing. At DHL, preparation of the index to proceedings was mentioned as one dimension that is not properly captured by the current indexing goals.

29. Both libraries spent a significant amount of resources accumulating workload statistics. However, the data was not analysed and the resulting performance reports were not used for resource allocation decisions. In some instances, the data collected did not facilitate measuring performance and workloads. In the opinion of Office of Internal Oversight Services, workload data needs to be clearly defined relative to specific productivity standards, appropriate systems should be implemented for accumulating and analysing productivity data, and performance reports should be developed to support resource allocation decisions.

C. Transfer of older documents to electronic formats

30. Both DHL and the UNOG Library need to identify accurately the costs and benefits of implementing library automation systems and electronic dissemination of information. The benefits in terms of improved operations have been realized incrementally. However, the net gains of implementing the advanced technology may dissipate because some of the costs, which are incidental to the new automation systems, have not been taken into account from the outset. The costs that are incidental to the implementation of the new system relate to the transfer of documents predating automation to electronic formats. Currently, DHL uses more than 10 full-time-equivalent staff in the areas of digitization, retrospective conversion of the old card catalogues and indexing of pre-1979 documents. In 2003, the UNOG Library completed the retrospective conversion of its old card catalogues using outsourcing arrangements and is now considering the acquisition of its own digital equipment and developing the expertise to digitize its share of older documents.

31. *DHL concurred that the conversion of retrospective materials, digitization and retrospective indexing should be treated as special projects. Retrospective conversion for non-United Nations materials should be tied to an inventory of the collection. The UNOG Library commented that even with the development of digital preservation, the amount of print documentation and paper archives would require adequate storage space with appropriate security arrangements and sufficient access facilities for the library users.*

32. The transfer of the old catalogues and documents to electronic formats can be expedited through more robust project management. The full extent of the tasks needs to be accurately determined, a timetable and a strategy for completing the tasks formulated and the amount of resources determined and mobilized. As mentioned, the UNOG Library outsourced its retrospective conversion of the old card catalogues and completed this task in 2003. However, DHL is still behind in this task owing to the integration of the conversion exercise into its routine

operations. OIOS is of the view that the transfer of older documents into electronic formats should be treated as a special project, separate from the routine operation of the libraries, involving collaboration and resource-sharing among the United Nations libraries. DHL explained that *while it would be advantageous to complete the conversion of old records, it was perhaps even more important to focus on the use of robust search engines and the merging of bibliographic and non-bibliographic information throughout the Secretariat.*

D. Staff development opportunities

33. The use of modern technology in library operations requires skilled and motivated staff. Both DHL and the UNOG Library have skilled personnel who are capable of using advanced technology in performing their work. While both libraries recognize the need for continuous training as an important factor in developing skills and are addressing this need, the lack of promotion and career development opportunities remains a challenge that has not been addressed. Staff in both libraries are not motivated owing to the lack of mobility and limited opportunities for career advancement. The average time spent at Professional levels — P-2 and P-3 — is 10 years. Staff turnover in certain functions of the libraries is high. At DHL, new recruits (generally from the pool of national competitive examination candidates) tend to leave the library after two years in accordance with the mandatory reassignment programme. The United Nations library policy and organization encourages exchanges of staff among the United Nations libraries. However, this has not been realized because of the absence of an effective collaboration mechanism. Lack of mobility and limited opportunities for career advancement are major obstacles to staff motivation and higher productivity.

34. OIOS noted that DPI had introduced a new policy on mobility in accordance with the Secretary-General's reform of human resources management of the United Nations. In addition, *DHL explained that with the introduction of new structures and working methods, using team and project-based approaches, as well as the move towards more collaboration within the Secretariat, it was expected that the staffing situation would improve.*

VI. Conclusions and recommendations

35. The functioning of the Steering Committee can be made more effective, thereby strengthening cooperation among United Nations libraries. The Committee's effectiveness would be further enhanced with the assignment of an additional mandate to develop a new United Nations library policy and with the inclusion of the specialized agencies in its framework.

36. The extent to which advanced technology is used in the delivery of information services is limited by the number of documents available in electronic formats. The transfer of the old catalogues and documents to electronic formats can be expedited through more robust project management. The full extent of these tasks needs to be accurately determined and a timetable and strategy for completing them formulated. The amount of resources also needs to be determined and mobilized.

37. The benefits of automation in the United Nations libraries could be made more visible through the development of a concrete and comprehensive automation strategy, which would identify specific goals in terms of improved services and the level of resources required. Under their new management, DHL and the UNOG Library are considering new strategies for delivering information services. To support these new strategies, the assessment of library resource requirements should be based on realistic workload indicators for major library functions.

Recommendation 1

38. To ensure sustained and effective collaboration among the libraries, the Steering Committee should develop and propose a new United Nations library policy for approval by the General Assembly. The new policy should address, inter alia, the future role of the United Nations libraries in light of advanced technologies and the Internet and seek to clarify the mandate of the Steering Committee and its funding sources. The libraries of the United Nations specialized agencies should be invited to participate in the Steering Committee in order to achieve the most comprehensive cooperation among libraries (AN2004/58/02/01).[5]

Recommendation 2

39. When developing the United Nations library policy, the Steering Committee should: (i) address the issue of further harmonizing and collaborating on the use of technology and the Internet in all United Nations libraries; and (ii) establish a timetable for each action in its work plan and ensure compliance with deadlines (AN2004/58/02/02).

Recommendation 3

40. The DHL and the UNOG Library should develop and introduce common productivity standards in all major areas of their operations and maintain an appropriate mechanism to assess actual performance against established standards. As part of this process, consideration should be given to reviewing the new performance indicators for the strategic framework (2006-2007) developed by UNOG (AN2004/58/02/03).

Recommendation 4

41. DHL and the UNOG Library should treat the transfer of older documents to electronic format as a special project, which would involve resource-sharing. The project should include digitization, retrospective conversion of the old card catalogues and indexing of pre-1979 United Nations documents. The full extent of the tasks should be accurately determined, a strategy and a timetable for completing the tasks formulated and the amount of resources determined and mobilized (AN2004/58/02/04).

42. *The Department of Public Information and the United Nations Office at Geneva concurred with the OIOS recommendations.*

(*Signed*) Dileep **Nair**
Under-Secretary-General for Internal Oversight Services

Notes

[1] For the purposes of the review, United Nations libraries include the Dag Hammarskjöld Library (DHL), the Library of the United Nations Office at Geneva (UNOG), the Library of the United Nations Office at Nairobi (UNON), the libraries of the Economic Commission for Latin America and the Caribbean, in Santiago (ECLAC), the Economic and Social Commission for Western Asia, in Beirut (ESCWA), the Economic Commission for Africa, in Addis Ababa (ECA), the Economic and Social Commission for Asia and the Pacific, in Bangkok (ESCAP) and the Library of the International Criminal Tribunal for Rwanda (ICTR). The review did not include the libraries of the United Nations information centres, which, organizationally, are not part of DHL and its parent Outreach Division of the Department of Public Information.

[2] JIU/REP/92/5, para. 140.

[3] Ibid., paras. 27 and 28.

[4] ISIS was developed by the United Nations Educational, Scientific and Cultural Organization more than 25 years ago.

[5] The symbols in parentheses in this section refer to an internal code used by OIOS for recording recommendations.

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Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance: strengthening of the coordination of emergency humanitarian assistance of the United Nations

International cooperation on humanitarian assistance in the field of natural disasters, from relief to development

Report of the Secretary-General*

Summary

The present report has been prepared pursuant to General Assembly resolution 58/25, in which the Assembly requested a report on the progress made in improving international response to natural disasters. The report also updates the activities of the International Search and Rescue Advisory Group, in response to General Assembly resolution 57/150 and other subsequent Assembly decisions on this subject.

The report highlights some of the key activities undertaken to respond to natural disasters during the reporting period with particular emphasis on disaster response, recovery and transition efforts and global initiatives to reduce risk.

* The report was delayed for technical reasons.

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I. Introduction

1. The present report has been prepared pursuant to General Assembly resolution 58/25, in which the General Assembly requested a report on progress made on improving international response to natural disasters.

2. The report also includes an update of the activities of the International Search and Rescue Advisory Group (INSARAG), in response to General Assembly resolution 57/150.

3. A number of issues relevant to the report are also addressed in the reports of the Secretary-General on strengthening the coordination of emergency humanitarian assistance of the United Nations (A/59/93-E/2004/74) and on the implementation of the international strategy for disaster reduction (A/59/228).

II. The year in review

4. The large number and scale of natural disasters are having an increasing human and financial impact, resulting in massive loss of life and property worldwide. It is often those communities most prone to natural hazards that are least able to cope with their effects, resulting in long-term negative social, economic and environmental consequences. In 2003 and 2004, it is estimated that natural disasters claimed the lives of 75,000 people, affected more than 284 million people and caused more than $65 billion worth of material damage. Overall trends indicate that the frequency of natural disasters and the number of people affected have increased sharply during the past 30 years, but that interventions, such as early warning and food aid, have maintained the death toll at a relatively steady level.

5. On 26 December 2003, a devastating earthquake struck the city of Bam in the Islamic Republic of Iran, destroying 85 per cent of the city, killing more than 26,000 people and injuring more than 30,000 others. Two months later, on 24 February 2004, an earthquake occurred close to the port city Al Hoceima, Morocco, killing more than 600, injuring 900 and displacing 15,000 people.

6. Intense monsoons in July 2004 led to serious flooding in South Asia, killing more than 2,000 people, affecting more than 50 million people and causing severe damage to public infrastructure, including roads and railways. South-East Nepal was the hardest hit, with an estimated 130,000 people affected and roughly 38,000 families displaced. In Bangladesh, more than 33 million people have been affected and about 5 million people are in urgent need of food, as well as other relief items. Flooding in the Dominican Republic and Haiti in November 2003 and May 2004 killed more than 1,059 people and affected 6,226 families. Severe flooding in Argentina and the former Yugoslav Republic of Macedonia caused infrastructural damage to roads and bridges, as well as to agricultural facilities. In Peru, severe cold and snowstorms in July 2004 killed 90 and affected 337,467 people. A heat wave in Europe in the summer of 2003 reportedly led to more than 20,000 deaths. To these examples can be added hundreds of smaller-scale disasters, many of which go unreported and therefore are not included in global disaster statistics.

7. Erratic and inadequate rainfall in the Horn of Africa perpetuates drought conditions in the region. Although international efforts to address and fund structural obstacles to food security averted a major famine from the drought that

began in 2002, food shortages continue to threaten millions with hunger. Malnutrition and extreme poverty have caused mass population movements in search of safer and more fertile ground. The United Nations 2004 Humanitarian Appeal estimates that almost 2 million people in Eritrea, 5 million people in Ethiopia and 1.3 million people in Somalia are in need of immediate emergency aid. In Kenya, the recent combination of endemic drought, premature ending of the long rains and blight on existing grain stores has put approximately 2.3 million people in immediate need of food assistance.

8. Although the situation in Southern Africa has improved considerably since the devastating drought and food crisis of 2002-2003, the situation remains precarious in many parts of the region due to the lethal mix of erratic weather patterns, high HIV/AIDS prevalence rates, restrictive land reform policies and weak governance. Poor harvests — notably in Lesotho, southern Malawi and Swaziland — combined with depleted productive capacity continue to erode previous nutritional gains and undermine prospects of sustainable livelihoods for millions of vulnerable people. Careful monitoring of food security in the region is critical, in the light of increasingly restrictive government policies and practices that are limiting humanitarian food aid, access to vulnerable populations and the collection of credible information on needs, vulnerabilities and capacities.

9. West Africa is currently facing a worsening locust crisis, which is causing significant crop damage. The worst affected country is currently Mauritania, while the situation is also deteriorating in Mali and the Niger. Locust swarms have also been reported in Burkina Faso, Cape Verde, Chad and Senegal. The Food and Agriculture Organization of the United Nations (FAO) has warned that the locust situation could further deteriorate in the next few weeks, with new swarms starting to form in September, seriously threatening crops that will be ready for harvest.

10. Epidemics and newly-emerging infections continue to threaten the health of people around the world. Globalization, climate change, the growth of mega-cities and an explosive increase in international travel are increasing the potential for rapid spread of infection. Deforestation and urban sprawl bring humans and animals in closer contact and allow new epidemics to emerge. Many of these epidemics, such as cholera and meningitis, recurrently challenge health systems in countries with limited resources, which are already strained by the HIV/AIDS epidemic. Other epidemics, such as influenza and dengue, have an increasing potential to create new pandemics. The return of yellow fever threatens large cities in the developing world, while the emergence and rapid spread of drug-resistant tuberculosis and malaria increase treatment costs dramatically. Travel, trade and tourism are all affected by emerging and epidemic disease threats.

11. As such events attest, the growing number of hazards and their increasingly damaging effects on vulnerable populations are cause for great global concern. A number of trends suggest that the situation is likely to get worse. Short-sighted policies and unsustainable development practices, such as uncontrolled urbanization and deforestation, continue, and the Earth's climate is very likely to change, owing to increases in concentration of atmospheric greenhouse gases caused mostly by burning fossil fuels. Authoritative predictions point to rising temperatures and sea levels and to greater intensity and incidence of extreme weather events, such as storms, floods, droughts and heat waves. Adverse socio-economic impacts are likely to result, including changes in agricultural production patterns that, in turn, will

have implications for livelihoods and migration patterns. Growing competition for the exploitation and the control of natural resources is often a factor in the outbreak or continuation of armed conflict.

12. Most worrying is the fact that developing countries are disproportionately affected. Natural hazards themselves — earthquakes, volcanoes, hurricanes and cyclones — do not necessarily lead to disasters themselves. Rather, hazards become disasters when they impact the people and the assets that are susceptible to their destructive effects. This is often due to unhelpful international and local policies and practices, such as inappropriate land use and poor building construction, which exacerbate vulnerability and erosion of the natural resource base. A United Nations Development Programme (UNDP) report, issued in 2004, *Reducing Disaster Risk: A Challenge for Development*, concluded that natural hazards of similar intensities produce more devastation in lower income countries. For example, countries classified as having low human development account for more than 53 per cent of total recorded deaths, despite representing only 11 per cent of the world's hazard-exposed populations. In other words, it is the poor and vulnerable who are most prone to environmental degradation and natural hazards, and who are likely to suffer the consequences, through death and displacement and the systematic loss of development gains. Mitigating the adverse effects of disasters is therefore inextricably linked to promoting sustainable development and achieving the Millennium Development Goals.

13. What is therefore required to both improve humanitarian assistance to disasters and accelerate progress towards achieving the Millennium Development Goals is a comprehensive two-pronged approach that puts energy and resources into preparedness for catastrophic events, while simultaneously investing in mitigation and development processes that aim to reduce risk. Building the capacity of Member States and regional organizations in disaster management and supporting national and regional risk reduction activities are also critical to ensuring that such approaches endure.

III. Update of activities: from relief to development

A. Emergency management and response coordination

14. The timely and effective response of Governments and the international community to natural disasters continued to be critical to saving lives and mitigating the immediate effects of emergencies.

15. From September 2003 to the end of August 2004, the United Nations assisted countries and regions affected by more than 50 natural disasters, in response to 20 international appeals launched by Member States. Efforts to coordinate the response of the United Nations system to natural disasters have included the launch of four United Nations inter-agency flash appeals — for the Bam earthquake, the Madagascar cyclone, the Bangladesh floods and the Kenya drought.

16. Since September 2003, United Nations Disaster Assessment and Coordination (UNDAC), a network of 180 disaster management professionals from 57 countries, coordinated the response to 10 disasters, including floods in the Sudan, the Dominican Republic, Haiti and Bangladesh, earthquakes in the Islamic Republic of

Iran, Morocco and Colombia, and typhoons in Micronesia (twice) and Vanuatu. Such efforts were supported by the World Food Programme (WFP), which worked in coordination with Governments to provide more than 30 million people in response to natural disasters in Southern Africa, the Horn of Africa, Mauritania, Madagascar, Afghanistan, Bangladesh, Pakistan, Haiti, the Democratic People's Republic of Korea and East Timor, and by the United Nations Children's Fund, which supported national emergency efforts to restore essential services and infrastructure in the areas of health, nutrition, water and sanitation, education and child protection.

17. Increasingly, the United Nations is trying to expand the participation of Member States in its disaster response networks and to foster a regional approach to natural disaster response, particularly among low-income countries. During the past year, UNDAC was able to expand its network by adding emergency managers from the Asia-Pacific region to the network, and will be holding an induction course for its new African emergency manager members in Addis Ababa in November 2004.

18. The World Health Organization (WHO) offers assistance to affected States by procuring medicines and medical supplies; rehabilitating health facilities and training health staff; ensuring routine immunization; strengthening disease surveillance systems; enabling control and response to communicable disease outbreaks; collaborating for environmental health and water and sanitation interventions; conducting health assessments and providing technical advice; facilitating health sector coordination; providing guidance for responding to the health needs of women and HIV/AIDS prevention in emergency settings; contributing to crisis-preparedness work and post-crisis recovery through medical screening of ex-combatants; and fundraising to assist Member States address the urgent health needs of the affected populations, as well as to pave the way to recovery of the health sector.

B. Drought response

19. Droughts pose unique response challenges, as they are often slow in onset, long and recurring in duration and often involve an interplay between natural and man-made causes. In addition, drought may compound conflict and can contribute to the onset of a complex emergency by triggering a fight over scarce resources, aggravating existing instability and further threatening those in power. The combined effects of these chronic shocks contribute to a deteriorating humanitarian condition, the breakdown of economic, political and social systems and the slow erosion of development gains. Response, therefore, demands an overall strategy that addresses emergency food needs, chronic food insecurity and famine response measures, including food assistance, health interventions and livestock vaccination.

20. The elements described above are all at play in the Horn of Africa, where the prolonged effects of chronic drought, flooding and insecurity have disrupted farming patterns and have caused erratic population movements, have eroded food security and livelihood capacities, have caused widespread malnutrition and have impeded recovery. In 2004, the United Nations, together with its non-governmental organization and Government partners, has tried to meet the needs of acutely vulnerable groups by issuing consolidated humanitarian appeals for $147 million in humanitarian assistance to Eritrea, $85 million to Ethiopia and $111 million to

Somalia, and to maintain food distribution throughout the region while mitigating the nutrition and health effects of water and food shortages. The alarming situation in Kenya led to the issuance of a flash appeal on 10 August 2004, which will, if necessary, be followed by a consolidated appeal for 2005. A total of $97 million was appealed for in order to respond to the acute needs of up to 2.3 million people hit by severe drought, crop failure, contaminated maize stocks and resulting abnormally high grain prices. Joint initiatives between the international community, donors and affected Governments, such as the Kenya Food Security Meeting, the New Coalition for Food and Livelihood Security in Ethiopia, the safety net programme in Eritrea and the Famine and Food Security Initiative in the Horn of Africa, aim to find longer-term solutions by ending the cycle of famine and improving long-term food and livelihoods security.

21. In Southern Africa, following an enormous humanitarian effort during 2002 and 2003, which helped to significantly reduce the impact of massive food shortages and prevent further deterioration of vulnerable communities, the United Nations, in collaboration with NGO partners and the Southern Africa Development Community (SADC), prepared a plan to address critical needs in Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe, requesting $419 million, primarily for food and emergency agricultural assistance and for support for social services such as health and education, and water and sanitation. The plan follows the approach outlined by the plan of the United Nations Special Envoy for Humanitarian Needs in Southern Africa, which calls for actions that address the emergency needs of vulnerable populations while simultaneously taking action to address long-term regional needs.

22. In addition, WFP is currently exploring the feasibility of acute hunger insurance as a financial tool to help mitigate the effects of extreme weather variations in drought-prone areas. As a first step, WFP is developing a weather index for Ethiopia that is designed to identify different levels of risk for weather variations, identify the population that needs to be safeguarded against hunger and calculate the cost of this protection for each risk level. Using this model, WFP, in partnership with the World Bank and the private insurance sector, intends to develop a formal mechanism that will build this risk — and its associated costs — into agency and donor country plans as an insurance policy for vulnerable populations against extreme weather conditions. This will allow for a reserve of "on call" contingency funds to cover deepening levels of vulnerability in the case of extreme weather conditions.

C. Local and regional capacity-building

23. By virtue of their immediate proximity to disasters and their knowledge of local infrastructure, national and local response teams will always be an important first line of defence against the destructive impact of natural disasters. Moreover, it is increasingly recognized by the Governments of disaster-prone countries, donors and international response agencies that building local capacity to prepare against and mitigate disasters is critical to reducing risk.

24. To address this, several capacity-building programmes to strengthen response preparedness were initiated in 2003-2004 in different regions and countries worldwide. To improve local response capacity, UNDAC teams were also sent to Colombia and the Philippines as part of regional INSARAG training exercises to

introduce new on-site coordination methodologies to disaster-prone countries and to train national authorities in international response coordination. UNDP provided regional training on risk reduction methods to reduce the effects of climate change in the Caribbean, established a framework for risk reduction in Colombia and supported the integration of risk reduction measures into the national housing strategy in Cuba. In Africa, UNDP and the United Nations Human Settlements Programme (UN-Habitat) conducted a comparative analysis of urban risk in major urban centres and began to develop appropriate actions for reducing this risk. In addition, UNDP supported the development of institutional and legislative systems for risk reduction in Albania, conducted flood risk preparedness exercises in Tajikistan and supported the strengthening of an external disaster reduction knowledge network for Central Asia. WHO promoted the topic of disaster mitigation in health facilities in Central America in the form of revised construction codes and norms for building health facilities. The World Meteorological Organization (WMO) provided training workshops and information support to improve early warning systems in numerous countries.

25. At the regional level, the international network of United Nations regional disaster response advisers focused on strengthening regional mechanisms to address all phases of disaster management. For example, in September 2003, the regional disaster response advisers for the Americas conducted contingency planning workshops with country teams and local entities in Colombia, Peru, Bolivia, Panama, El Salvador and the Dominican Republic, and formed a regional group for risk and disaster management which came together to discuss common issues, such as civil-military assistance in disaster response in Latin America.

26. In Asia, the Asian Disaster Reduction Centre and regional disaster response advisers for Asia jointly organized a regional conference in Kobe, Japan, in December 2003, inviting Governments, NGOs, international organizations, the media and scientific and academic institutions to share best practices and initiatives in the region and facilitated disaster management training and workshops for United Nations country teams and Governments in Cambodia and Myanmar.

27. The Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat regional office in South Africa is working in support of resident coordinators to improve regional and country ability to respond to disasters that address the unique vulnerabilities that prevail in Southern Africa. For example, with the Office's support, the SADC vulnerability assessment committees have begun an assessment of regional and national vulnerabilities to drought, including specific links with the HIV/AIDS crisis.

D. Risk reduction and mitigation

28. "Disaster risk reduction" describes measures taken in advance to curb disaster losses, through reducing exposure and susceptibility of populations to natural hazards and enhancing their coping and adaptive capacity. There is increasing recognition of the importance of risk reduction in disaster-prone countries, prompting numerous global efforts to reduce risk, particularly under the umbrella of the International Strategy for Disaster Reduction.

29. The Strategy is guided by the Inter-Agency Task Force on Disaster Reduction, whose members include United Nations agencies, regional organizations and civil

society organizations, and it plays a key role in advocacy and coordination. In addition, a specific tripartite collaboration arrangement is maintained between the Office for the Coordination of Humanitarian Affairs, UNDP and the Strategy secretariat in order to strengthen the effectiveness of the United Nations in reducing disaster risk and vulnerability and incorporating risk-reduction strategies into all phases of disaster management.

30. Strengthening early warning and risk assessment systems is a priority, as global disaster trends suggest that improved early warning systems, including prediction and alert systems, educational programmes and designated evacuation routes and safe havens, have been instrumental in reducing disaster-related casualties during the past 30 years. In October 2003, the Strategy held the Second International Conference on Early Warning to emphasize the need to better target early warning systems to disaster-prone countries and to better translate early warnings into early action. As a result of the conference, a platform to promote early warning has been set up in Bonn, Germany, under the Strategy secretariat. It will build links among the many early warning programmes of United Nations agencies, such as WMO weather programmes and the FAO Global Information and Early Warning System on food insecurity, with a view to facilitating joint efforts for improved services to Member States and the development of an inter-agency humanitarian early warning web platform, to be led by WFP, to facilitate access to and use of early warning information by the larger humanitarian community.

31. To improve risk assessment models, UN-Habitat and UNDP, in collaboration with the Asian Disaster Preparedness Centre and the Organization of American States (OAS), have taken the lead in the development of an inventory of risk analysis and vulnerability assessment tools, particularly for local and urban applications. The first phase of the project will be completed in 2004. In addition, UNDP has begun the development of a global disaster risk index, which measures the relative vulnerability of countries to three key natural hazards (earthquakes, tropical cyclones and floods), identifies development factors that contribute to increased risk levels and demonstrates how countries with similar levels of exposure to natural hazards often experience widely differing impacts. In addition, FAO has developed emergency needs assessment guidelines. This livelihoods-based approach to assessment contributes to the objectives of supporting disaster mitigation and preparedness as it increases the understanding of the roles played by social groups, stakeholders and local institutions in the different phases of disaster risk management, as well as coping capacities of rural populations.

32. There is also growing recognition of the need to integrate disaster risk reduction into development processes as a means of achieving the Millennium Development Goals. The report *Reducing Disaster Risk: A Challenge for Development*, launched by UNDP, with the support of UNEP and the Strategy secretariat, concludes that while exposure to some hazards is inevitable, susceptibility to their disastrous effects is not automatic, and that good development practices can intervene to avoid the translation of physical exposure into disastrous events.

33. Such conclusions have prompted initiatives to integrate risk reduction into development practices. For example, in 2004, a partnership was formed between the Strategy, the African Union, the New Partnership for Africa's Development secretariat, UNDP and the World Bank to develop the African Regional Strategy for

Disaster Risk Reduction. This approach was endorsed by the African heads of State in Addis Ababa in July 2004. To ensure that disaster risk management is a key consideration within sustainable agriculture and rural development policies and programmes, FAO has decided to further strengthen its policy advisory and technical activities in countries that are especially prone to natural hazards.

34. As a measure to reduce risk, the Office for the Coordination of Humanitarian Affairs, together with the United Nations Environment Programme, is addressing environmental considerations that are central to effective disaster mitigation and response. A major step forward has been the launch of a new global environmental emergencies partnership, which supports risk-reduction efforts through practical initiatives that strengthen collaboration and information-sharing between international, national and regional environmental emergency stakeholders.

IV. Improving the effectiveness and the efficiency of international urban search and rescue assistance

35. The International Search and Rescue Advisory Group is an intergovernmental network under the United Nations umbrella responsible for urban search and rescue and related disaster response issues. Its purpose is to provide a platform for information exchange, to define standards for international urban search and rescue assistance and to develop a methodology for international cooperation and coordination in earthquake response. The INSARAG network includes earthquake-prone countries as well as traditional providers of international assistance.

36. During the reporting period, INSARAG was particularly instrumental in responding to the earthquakes in Bam, Islamic Republic of Iran, in December 2003 and in Al Hoceima, Morocco, in February 2004, when international search and rescue teams worked in support of the affected Governments and national and local response teams to rescue people trapped under collapsed urban structures. The response was followed by "lessons learned" meetings organized by the INSARAG secretariat (Office for the Coordination of Humanitarian Affairs), which brought together the affected Governments and international, national and local response teams to evaluate the earthquake response and to make recommendations for inclusion in the INSARAG guidelines, which are currently being revised accordingly.

37. To improve local response capacity, UNDAC teams were also sent to Colombia and the Philippines as part of regional INSARAG training exercises to introduce new on-site coordination methodologies to disaster-prone countries and to train national authorities in international response coordination. INSARAG also organized regional meetings in Kobe, Japan (November 2003), Tunis (April 2004), Lima (August 2004) and Singapore (September 2004) to discuss regional cooperation, with an emphasis on national capacity-building for emergency response preparedness.

38. In addition, the INSARAG secretariat, supported by the Governments of the Republic of Korea and Singapore, organized meetings of all international urban search and rescue team leaders worldwide in Seoul (November 2003) and Singapore (September 2004) to enable the emergency response practitioners to discuss technical and operational collapsed structure rescue issues in order to improve

performance standards of international urban search and rescue teams and their coordination on site in an emergency. In order to expand its activities, INSARAG established an INSARAG sub-office in Tunis in April 2004 and conducted an INSARAG familiarization module for Central and Southern European countries in Hungary in February 2004 and for the Association of Southeast Asian Nations (ASEAN) countries in Indonesia in May 2004.

V. Emerging issues and challenges

39. Despite much progress during the past year, there remain fundamental challenges to improving preparedness, response and risk-reduction efforts. In this regard, donor and disaster-prone Governments, together with the United Nations system and its partners, can collectively play a critical role in addressing these issues, improving the management of disasters and ultimately saving lives.

A. Strengthening emergency response

1. Improving response coordination

40. An ongoing challenge for international disaster response networks, such as UNDAC and INSARAG, is how to more effectively coordinate relief personnel and assets in a sudden-onset emergency. Scores of local, national and international relief teams converge on the scene, and Governments supply relief supplies and assets, often without a clear sense of what kind of aid is most needed and where. Rather than contribute to the overall relief effort, the presence of so many actors from different countries with a variety of levels of training and expertise often leads to confusion and duplication of effort and becomes more a burden than an asset.

41. A particular concern that has arisen is the over-deployment of international search and rescue teams in the aftermath of an earthquake. Because such deployment is often dictated by bilateral agreements between countries, it is difficult for international coordination networks to limit the use of such teams. INSARAG had some success during the Bam earthquake in limiting the number of search and rescue teams by informally sharing information through a virtual on-site operations coordination centre (www.reliefweb.int/virtualosocc/login.asp). However, a more formal mechanism is needed to ensure that coordination mechanisms are in place to advise Governments on the timing and the use of their search and rescue assistance.

2. Resolving administrative bottlenecks

42. Safe, immediate and unhindered access to disaster sites and affected communities is critical to a timely and effective response, particularly in sudden-onset disasters such as earthquakes, where the difference between life and death can literally be measured in a couple of hours. This was demonstrated in the aftermath of both the Bam and Al Hoceima earthquakes, when the Governments of the Islamic Republic of Iran and Morocco waived visa requirements so that international search and rescue teams could gain access to the disaster site quickly. Resolving such administrative issues ahead of such an emergency would further reduce confusion, shorten response time and ease operations.

43. In its resolution 57/150, the General Assembly urged Member States to simplify or reduce administrative procedures related to the entry, deployment and exit of international urban search and rescue teams with their supplies and equipment. At present, only the Government of New Zealand has clear guidelines on this issue. It is important that disaster-prone countries follow suit and establish measures and guidelines that facilitate secure and quick access to disaster sites by relief teams when disasters strike.

3. Incorporating risk reduction into response

44. Responses to disasters and recovery projects can themselves prolong or create new risk, such as relocating flood victims to areas with inadequate facilities, over-emphasizing food assistance at the expense of other needs or creating aid dependencies that work against populations re-establishing their own livelihoods. Conversely, disasters can open up unique opportunities for systemic, institutional and practical changes that can reduce risk and lead to sustainable development.

45. It is therefore critical that risk reduction concerns are taken into consideration in the preparedness and response phases of a disaster. Better guidelines and tools to do so need to be developed and disseminated. At the international level, this includes better preparedness efforts on the part of the United Nations country teams through (a) improved early warning and contingency planning; (b) pre-determined roles and responsibilities among relief agencies, civil society groups, regional disaster response advisers and Governments; (c) advance identification of potential areas and types of vulnerability; (d) opening up communication channels to facilitate information and data exchange; and (e) prepositioning funding and supplies and determining the terms and mechanisms for their quick release.

46. Also critical to risk reduction is ensuring that vulnerable countries and regions can respond speedily to sudden-onset disasters in their proximity. This entails building and supporting a sustainable local capacity for both preparedness and response through material and technical support and through training. Such efforts would also improve overall response by promoting a stronger national role in international and regional response coordination when dozens of assistance groups rush to the field.

47. Disasters are often of a regional scale, requiring regionally based efforts to reduce risk. Regular flooding of the Zambezi and Okavango river basins systematically destroys crops, homes and livelihoods in most of central Africa. Drought conditions throughout Southern Africa have had far-reaching effects on food security, health, nutrition and livelihoods. Mudslides in Central America, prompted by hurricane Mitch, consumed parts of the Pan-American Highway, rendering one of the most important commercial routes of the region impassable. Regional consultation, cooperation and planning, combined with political and financial commitments, can do much to promote a coherent approach to risk reduction, streamline donor assistance and create a framework for sharing costs, information and infrastructure towards building disaster-resilient communities region-wide.

B. Funding

1. Strengthening emergency funding

48. The Office for the Coordination of Humanitarian Affairs has benefited from individual arrangements with the Governments of Norway, Italy, Denmark, the Netherlands and the Government of Ireland to provide reserve funds in the Office's Trust Fund for Disaster Relief. This arrangement has enabled the Office to respond immediately to the most pressing needs of disaster victims. In view of this positive experience, the Office hopes to interest additional donors in this scheme.

49. In addition, in the immediate aftermath of a natural disaster, the Office can provide from its regular budget emergency cash grants of up to $50,000 to affected countries. These grants are particularly effective because they can rapidly be used for the local purchase and delivery of life-saving relief supplies. The cash grant is also crucial because it can help buy time by bridging the immediate funding gap, pending the response of the international donor community. This emergency cash grant has its origin in General Assembly resolution 2816 (XXVI). While the total amount of the grant has been expanded to $1.5 million in funds from the United Nations regular biennial budget, the ceiling of $50,000 has not been changed since 1983.

50. However, natural disaster response experiences, most recently those derived from the Bam earthquake, demonstrate that the maximum of $50,000 emergency cash grant is not sufficient and frequently is far below what would be effective in the absence of alternative means of immediate relief. It is therefore necessary to raise the cash grant ceiling to the more appropriate level of $100,000 per disaster in the affected country, within the existing resources available in the regular budget. This issue was already taken up and endorsed by the Economic and Social Council in its resolution 2004/____.

2. Funding risk reduction

51. Funding for natural disasters tends to be focused on the immediate, high-profile response phase, rather than on preparedness, mitigation and other risk-reduction activities. However, investing in long-term disaster-reduction efforts is potentially a more cost-effective means of saving lives, as it preserves developmental and financial investments that otherwise might be lost. Such trends suggest that a new approach is needed to both raise overall awareness of and funding levels for natural disasters and to channel a larger proportion of these funds to risk reduction efforts. For example, during this period, UNDP provided more than 40 emergency cash grants to countries affected by natural disasters. These cash grants were used to support the coordination function of the resident coordinator system, to jump-start the early recovery planning process and to integrate risk reduction concerns into recovery efforts from a very early stage.

C. Information management

52. Access to timely, reliable and accurate information is critical to improving emergency response, maximizing resources and minimizing risk and human suffering. Equally critical is the preparation, coordination and broad sharing of

baseline data, including national and subnational demographic data, vulnerability assessments and early warning analysis.

53. While there are several subnational, national and global initiatives that compile, compare and analyse disaster-related data, in most cases they have been developed independently, using different criteria and formats, with different purposes in mind. While individually useful, inconsistencies, data gaps and ambiguity of terminology make comparisons and use of the different data sets difficult. This can lead to much confusion in the perception and the evaluation of a disaster situation, and poses a severe obstacle to planning, decision-making and fundraising, potentially at the expense of lives.

54. As a means of improving the quality, coverage and accuracy of disaster data and assessing future risk at multiple levels, a sub-working group within the Inter-Agency Task Force on Disaster Reduction is working to standardize, aggregate and link disaster-related data from different sources by reviewing and identifying disaster datasets and methodologies, by developing standards for defining, identifying and recording natural and man-made disasters, such as the global unique disaster identifier, and by developing indicators and indexes for global risk assessment.

55. What is needed at this stage to further improve disaster-related data is an effort to aggregate local, national and global disaster data into a widely accessible global disaster database. This would greatly improve international, regional and national disaster managers to accurately document and analyse the losses associated with natural hazards worldwide. In addition, more resources should be dedicated to the analysis of information on disasters and their immediate and longer-term impacts, such as more hazard-specific analysis of risk and an overall assessment of the cost-effectiveness of risk reduction. Such analysis could be used as a means of informing the investment and the policy priorities of international and national assistance organizations, donors and affected States.

D. Improving post-disaster transition

56. Disaster response tends to be dominated by relief interventions in the acute emergency phase, often to the exclusion of inputs needed to support an appropriate recovery. National Government services and physical infrastructure have often been eroded or destroyed, individual assets have been depleted and social support systems are under stress. People who have been displaced by disasters want to return home or to establish themselves in new communities. In addition to being an important stage in community rehabilitation, the early recovery phase presents an important opportunity for implementing risk reduction measures in high-risk countries, such as environmentally friendly land-use policies, appropriate building standards, construction, preparedness training and support for national structures, with potential long-term benefits.

57. The international community, led by the United Nations system, can help support such transitions. However, there remains a resources and planning gap between disaster relief and recovery phases, and awareness of the potentials of transition as an opportunity for development among Governments, multilateral financial institutions and donors remains low.

1. Bridging the funding gap

58. Most resources mobilized for natural disaster situations are tagged for either emergency assistance or long-term reconstruction and are not easily applied to transition purposes. Moreover, there are no formal fundraising mechanisms dedicated to raising transition funds.

59. To bridge this funding gap, the international community should explore the relative merits of developing a new funding mechanism for disaster recovery or integrating natural disaster recovery requirements into long-term donor assistance strategies and plans.

2. Addressing the planning gap

60. Transition planning would gain from clarifying what transition actually entails, as well as from bridging this institutional gap through closer cooperation among humanitarian and development partners on recovery issues, greater synchronization of geographic and sectoral planning and fund-raising tools, more coherent needs assessments and prioritization and a focus on programmes and projects that reduce vulnerability.

61. Moreover, unlike in post-conflict situations, national authorities are often in the best position to take the lead in carrying out post-disaster recovery and reconstruction activities. The international community, led by the United Nations system, must support national structures to be able to carry out reconstruction activities, particularly in regions susceptible to recurring disasters.

3. Using the recovery phase as an opportunity for risk reduction

62. The post-crisis phase following a natural disaster is a critical period for initiating risk reduction efforts. The tragedy of human and financial loss is still fresh in the minds of the media, the international community and local populations, and the will of Government to prevent future catastrophes is likely to be strong. It is important to take advantage of this period to enact institutional and practical change in the name of reducing future risk.

63. For example, the early stages of post-crisis rehabilitation are critical for introducing new approaches to urban governance and planning, such as building codes, construction standards and zoning and urban expansion. For example, following the devastating earthquake in Bam, UN-Habitat, in cooperation with UNDP and the Government of the Islamic Republic of Iran, prepared a reconstruction strategy for shelter and local government capacity-building. In Haiti, UN-Habitat provided support and substantive input on human settlements issues, as part of the two-year recovery framework following the July 2004 floods.

64. If efforts are made to (a) support local and national recovery processes at an early stage, (b) consider risk and vulnerability reduction in all recovery activities, and (c) enhance the relationships between, and build on, the comparative advantages of development and humanitarian actors, it may be possible to close the gap between relief and development, pre-empt the resumption of activities that contribute to risk, prevent the re-emergence of disaster risk and transform crisis into opportunities for sustained development.

E. Tackling the hard questions

65. To date, the debate on risk reduction has tended to focus on humanitarian and development solutions, neglecting the equally important political angle of the risk reduction agenda. As a result, many fundamental risk-reduction issues are not being pursued because they often entail addressing deep structural issues or policy measures that are politically difficult to achieve. For example, land-reform policies that promote individual ownership and investment in methods that improve fertility and prevent soil erosion, such as planting trees or terracing, would reduce the risk of famine in drought-affected countries. However, it is in solving such political obstacles that risk reduction has the most to gain. If risk reduction is to remain a global priority, political challenges cannot be ignored.

VI. Conclusions and recommendations

66. Current trends in urbanization, environmental degradation and climate change imply that natural and man-made emergencies will continue to increase in their regularity and intensity. Without focused efforts to improve preparedness and response and address risk and vulnerability, the effects of disasters on people and human settlements will become more deadly and costly, trapping millions of people in vicious cycles of poverty and marginalization. The situation calls for more concerted and comprehensive approaches to disaster management that aim to recognize and build national and regional capacity and to emphasize risk reduction as a core principle.

67. While progress has been made in building and coordinating action for risk reduction, it is being achieved against a backdrop of growing exposure and vulnerability to risk. In particular, there remains a significant lack of systematic policies and practices that support local and national response and risk reduction capacities. These require institutional and financial commitment to ensure that disaster risk reduction is more explicitly integrated into development planning and the will to ensure that the more difficult political and structural elements of risk reduction policies are seriously addressed.

68. Such issues will be important considerations at the World Conference on Disaster Reduction, to be held in Kobe, Japan, from 18 to 22 January 2005. The Conference will draw attention to the fact that the prevalence of disasters continues to grow and remains a major obstacle to sustainable development and achievement of the Millennium Development Goals. It will also focus on developing practical recommendations to assist countries and the international community in the implementation of improved risk reduction and disaster management. Information on preparatory activities for the Conference can be accessed at www.unisdr.org/wcdr.

69. In the light of these conclusions, the following recommendations for strengthening international assistance to natural disasters merit consideration:

Disaster response

(a) Member States in disaster-prone countries are encouraged to develop national policies and mechanisms for the coordination of search and rescue teams in the event of an earthquake, bearing in mind the INSARAG guidelines and the provisions contained in General Assembly resolution 57/150;

(b) Member States are invited to strengthen cooperation with UNDAC as a valuable tool to maximize international expertise and resources, in order to respond to sudden-onset emergencies and to support the expansion of UNDAC membership, particularly in Africa and among disaster-prone countries;

(c) The United Nations should strengthen the network of regional disaster response advisers and disaster reduction advisers to assist in developing coordinated and complementary regional capacity-building for disaster preparedness, response, mitigation and risk reduction;

(d) The United Nations should strengthen emergency preparedness to anticipate, plan for and mitigate the humanitarian impact of crises through both strengthened emergency preparedness and response capacities by individual agencies and actors and the optimization of those capacities through inter-agency mechanisms such as the Inter-Agency Standing Committee Sub-Working Group on Preparedness and Contingency Planning;

Building local and regional disaster management capacity

(e) The United Nations, together with its international partners, should strengthen efforts to identify more practical ways to channel resources to and strengthen support for local and national disaster management capacities in disaster-prone countries;

(f) The United Nations should encourage and forge partnerships among regional organizations, including through the network of regional disaster-response advisers, to build regional response and risk reduction capacity;

Information management

(g) The United Nations should address knowledge gaps in disaster management and risk reduction by identifying ways of improving systems and networks for the collection and the analysis of information on disasters, vulnerability and risk and to help inform decision-making;

Risk reduction and sustainable development

(h) Humanitarian and development agencies, together with Member States, should consider concrete ways of factoring risk reduction into areas of development and recovery, particularly in post-disaster recovery;

(i) Member States are encouraged to incorporate risk reduction into development planning and priorities towards the achievement of the Millennium Development Goals;

Disaster funding

(j) Donors are encouraged to increase overall funding to disaster management, and in particular, should consider channelling a larger proportion of disaster funds into risk-reduction efforts, including response preparedness initiatives;

(k) The United Nations should strengthen support for emergency disaster funding, including by raising the ceiling of the emergency cash grant system from

$50,000 to $100,000 per disaster in an affected country, within the existing resources currently available in the regular budget;

(l) United Nations humanitarian and development agencies should aim for greater coherence in planning and fundraising tools in support of post-disaster crisis recovery, transition and development;

Monitoring and evaluation

(m) The United Nations should further study the international architecture for disaster risk management to improve the response of the international community to preparedness, to natural disasters and to integrating risk assessment and risk-reduction approaches into development programming;

(n) The United Nations system should support research on key issues in disaster risk reduction, such as research on approaches to cost-benefit analysis and options for minimizing hazards and vulnerability;

World Conference on Disaster Reduction

(o) Member States are encouraged to provide ongoing support for the World Conference on Disaster Reduction and to ensure that the opportunity is used to reaffirm and strengthen the implementation of disaster-reduction policy and practices.

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Elimination of racism and racial discrimination: comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Report of the Secretary-General*

Summary

The present report is submitted in accordance with General Assembly resolution 58/160. It focuses on activities undertaken by States, the Office of the United Nations High Commissioner for Human Rights, United Nations bodies, specialized agencies, international and regional organizations, national human rights institutions, non-governmental organizations and youth groups and organizations to implement the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

* The late submission of the present report is due, on the one hand, to the late reply by most States to the note verbale sent on 3 May 2004 and, on the other hand, to delays by Conference Services in delivering translated documents.

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I. Introduction

1. In its resolution 58/160, the General Assembly requested the Secretary-General to submit a report on the implementation of the resolution to the Assembly at its fifty-ninth session. In the interest of consolidating information relating to global efforts towards the total elimination of racism that is available to the Assembly from other sources, the present report focuses on activities relating to the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In this regard, reference is made to reports previously submitted on the comprehensive implementation of the Durban Declaration and Programme of Action to the Commission on Human Rights at its fifty-eighth, fifty-ninth and sixtieth session (E/CN.4/2002/21, E/CN.4/2003/18 and E/CN.4/2004/17) and to the General Assembly at its fifty-seventh and fifty-eighth session (A/57/443 and A/58/324).

2. On 3 May 2004, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent notes verbales and letters to States, United Nations bodies and specialized agencies, international and regional organizations, national human rights institutions and non-governmental organizations (NGOs) requesting information on follow-up and implementation activities undertaken in the context of the World Conference. The responses received are summarized in the present report.

II. Implementation of and follow-up to the Durban Declaration and Programme of Action

A. Member States

3. Following a request for technical assistance, OHCHR has funded the elaboration of a national plan of action against racism by the Government of Argentina that seeks to involve all relevant sectors of society. The Government reported that a core team was set up to conduct interviews on the theme of discrimination. The drafting process proper of the national plan of action will commence upon completion of the cycle of visits to the interior of the country to gather input from groups vulnerable to racism.

4. The Government of Azerbaijan reported that the Public Health Care Act of 26 June 1997 provides for State protection in the field of health care, notably through free access to medical treatment, including for stateless persons and aliens permanently residing in Azerbaijan. Pursuant to the Acquired Immunodeficiency Syndrome (AIDS) Act of 16 April 1996, the State ensures that Azerbaijanis with HIV/AIDS receive specialized care, as do resident aliens and stateless persons. Regarding indigenous peoples, article 25 of the Constitution of 12 November 1995 guarantees equality in rights and freedoms for all, irrespective of race, ethnicity, religion, language, gender or origin. A presidential decree of 16 September 1992 on protection of the rights and freedoms of ethnic minorities preserves and develops the cultural, linguistic and religious identity of ethnic minorities. Article 10 of the Labour Migration Act of 28 October 1999 allows migrant workers and their families to enjoy equal social protection with Azerbaijani citizens. The Criminal Code of Azerbaijan seeks to combat trafficking in persons, and trading in human organs and

tissues. A national plan of action to combat trafficking in persons was ratified by order of the President on 6 May 2004.

5. The Campaign against Racism in the Czech Republic includes dissemination of literature on multicultural themes and minorities, awareness-raising, intercultural workshops for children, visits of multi-ethnic teams of instructors to secondary schools, and lectures on tolerance for primary school children. The Government has adopted an Anti-discrimination Act in principle, which regulates the right to equal treatment and to protection against discrimination, sets out a legal framework for the application of positive action, and sets out entitlements for victims. Projects on national minorities within the National Strategy for the Police Force were tested in 2003, such as the Shared World project involving North Moravian police officers. Training activities were carried out while the conduct of police officers was regularly monitored. The Government also encourages Roma to apply for jobs in the police force. A seminar was jointly held in 2003 with OHCHR on the implementation of the Durban outcome. With regard to employment, measures were taken to integrate risk groups, such as the Roma community. The PHARE programme, the Roma Integration Support programme, and the Reform of Multicultural Education programme facilitate education in minority languages.

6. The policy of the Government of Denmark for eliminating racial discrimination against non-citizens residing in the country includes both legislative and programmatic initiatives. On 1 January 2003, the Danish Institute for Human Rights was established with competence, inter alia, to promote non-discrimination, assist victims of discrimination, conduct independent surveys on discrimination, publish independent reports and make recommendations to further the equal treatment of all persons. On 1 July 2003, the Act on Equal Treatment Irrespective of Ethnic Origin entered into force, granting the Danish Institute for Human Rights the prerogative to hear appeals, express an authoritative opinion and offer free legal aid. In November 2003, Denmark adopted its Action Plan to Promote Equal Treatment and Diversity.

7. The Integrated Action Plan for the Social Integration of Greek Roma of the Government of Greece is being implemented under the responsibility of an inter-ministerial committee. This plan aims at eliminating social disparities, promoting social integration of Greek Roma. In the field of migration, a legal framework ensures that aliens enjoy the same social security rights and social protection as Greek nationals. An "Immigration Guide" has been distributed in several languages. Legislation guaranteeing the right to family reunification and equal treatment of persons irrespective of racial or ethnic origin will be adopted soon. An Institute for Migration Policy has been set up. The General Secretariat for Gender Equality monitored the situation of female refugees in centres for asylum-seekers and made proposals to improve their condition.

8. The Republic of Korea took measures to improve the human rights of migrants and refugees. Voting rights were granted to temporary residents through the Resident Voting Act of 29 January 2004 and, as of April 2004, permanent residence status was granted to foreigners in residence for five years. Foreigners married to citizens could become naturalized after the same period. The Government took steps to improve the situation of refugees' access to employment. In July 2003, the National Assembly passed the Foreign Workers Employment Act, granting legal status to formerly illegal foreign workers and introducing an employment licensing

system. Since January 2003, free legal counsel is provided to vulnerable groups. In two regions of the country, 24-hour safehouses provide translation in English and Russian, emergency protection, and legal and medical assistance to non-citizens forced into prostitution.

9. The Government of Kuwait provides services on the basis of equality among all individuals without any distinction as to sex, origin, language or religion, in accordance with article 29 of its Constitution. Kuwait is fully committed to abiding by its international commitments. According to the Government, there is no form of discrimination based on colour, sex or religion in Kuwait, nor have there been any problems or acts of related intolerance involving nationals, migrants or any other group present on its territory. The right to seek a legal remedy is guaranteed to everyone and the judiciary adjudicates such cases independently.

10. The Government of Mexico established a National Council for the Prevention of Discrimination (CONAPRED) on 27 March 2004. CONAPRED has formulated opinions on legislative reforms concerning the rights of disabled persons and the law on the National Institute for Women. It has also investigated complaints of discrimination by public servants and non-State actors. Handbooks were developed on "Discrimination on the basis of ethnic origin" and "Discrimination in the history of Mexico". In the field of education and awareness-raising, CONAPRED notably cooperates with the National Commission for Human Rights and is planning to publish children's stories on the respect for diversity. The CONAPRED anti-discrimination campaign was supported by the media.

11. The Government of Poland adopted the National Action Plan for Countering Racial Discrimination, Xenophobia and Related Intolerance on 18 May 2004. The Plan will be implemented over a five-year period. It includes measures in the sphere of research, statistics, education, culture, health, the media, employment and social services for refugees, persons belonging to national and ethnic minorities, migrants and other vulnerable groups. Several long-term projects are ongoing, notably to enhance the capacity of the public administration to coordinate, strengthen and enforce the Government's anti-discrimination policy. A pool of human rights trainers specialized in anti-discrimination was set up to train civil servants, law enforcement personnel and teachers. An amended Labour Code entered into force on 1 May 2004, banning direct and indirect discrimination on grounds of, inter alia, gender, race, ethnic origin, religion, belief, disability, sexual orientation, or membership of a trade union.

12. The Republic of Slovenia is implementing legal and judicial measures to combat racism, including the implementation of cultural rights of national and ethnic minorities. Within the Slovenian police force, measures have been introduced to fight against discrimination by (i) a special Intranet page on human rights; (ii) an interaction project between the Roma population and the police force; (iii) a human rights publication for the police; and (iv) the distribution of the European Code of Police Ethics to Slovenian police. Positive measures aimed at providing equal opportunities for minorities to participate in cultural events and to protect the collective and individual cultural rights of minorities are taken with the support of the media, as prescribed by the Public Media Act.

13. The Government of the Syrian Arab Republic guarantees public freedoms, including the freedom of belief and the right to work. According to the Syrian authorities, there are no forms of discrimination or xenophobia in the country.

B. Office of the United Nations High Commissioner for Human Rights

14. The main focus of OHCHR is to follow up the effective implementation of the Durban Declaration and Programme of Action by collecting information on initiatives taken by interested stakeholders while focusing on servicing established follow-up mechanisms and other meetings, providing technical cooperation to partners, strengthening inter-agency coordination, expanding liaison with non-governmental organizations (NGOs) and youth organizations, and launching a series of publications and other awareness-raising and outreach material.

15. OHCHR serviced human rights bodies and meetings as follows:

First meeting of the independent eminent experts on the implementation of the Durban Declaration and Programme of Action (Geneva, 16-18 September 2003; see E/CN.4/2004/112);

Third session of the Working Group of Experts on People of African Descent (Geneva, 29 September-10 October 2003; see E/CN.4/2004/21);

Second session of the Intergovernmental Working Group on the Effective implementation of the Durban Declaration and Programme of Action (Geneva, 26 January-6 February 2004; see E/CN.4/2004/20);

Two regional expert seminars to study modalities for the implementation of the Durban Declaration and Programme of Action, hosted respectively by the Government of the Czech Republic in Prague for Eastern European countries from 24 to 26 September 2003 (see E/CN.4/2004/17/Add.1) and by the Government of Belgium in Brussels for Western European countries from 10 to 12 December 2003 (see E/CN.4/2004/17/Add.2). Some 12 experts presented background papers informing the deliberations.

16. Technical cooperation was provided in the form of grants or financial support:

Grant to the Government of Argentina for drafting a national action plan to combat racism;

Financial support to national human rights institutions in Mexico, Venezuela, Fiji, Mongolia and Niger for projects on awareness-raising in the area of racism;

A small grants scheme under the Assisting Communities Together (ACT) project, by which NGOs, grass-roots organizations and schools received financial support for action-oriented initiatives in the field of education against racism in Burundi, Chad, Ethiopia, Mauritania, Cambodia, Indonesia, Mongolia, Kyrgyzstan, Romania, Serbia and Montenegro, Barbados, Colombia, Nicaragua and Uruguay. The ceiling of each grant was roughly US$ 5,000, the United Nations Development Programme (UNDP) being the OHCHR implementing partner at the country level.

17. OHCHR undertook cooperation with United Nations bodies, specialized agencies, and international and regional intergovernmental organizations:

(a) As the lead agency responsible for the United Nations anti-discrimination programme, OHCHR cooperated with the special procedures of the Commission on Human Rights, United Nations bodies and specialized agencies, and international

and regional organizations. Experts from the Committee for the Elimination of Racial Discrimination (CERD), the United Nations Voluntary Fund for Technical Cooperation, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Bank, the International Monetary Fund, the United Nations Conference on Trade and Development (UNCTAD), the International Labour Organization (ILO), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the European Commission against Racism and Intolerance (ECRI) participated in the Working Group of Experts on People of African Descent and/or at the Intergovernmental Working Group. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the right to education and the independent expert on extreme poverty also contributed to the deliberations of one or the other follow-up mechanism;

(b) At the Conference on Anti-Semitism convened by the Organization for Security and Cooperation in Europe (OSCE) in Berlin in April 2004, an OHCHR representative made a presentation on the role of CERD, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the OHCHR Anti-Discrimination Unit in the monitoring of anti-Semitism. Since then, a process of consultations is ongoing with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to explore avenues for future cooperation. OHCHR also played an active role at the OSCE meeting on the relationship between racism, xenophobic and anti-Semitic propaganda on the Internet and hate crimes, held in Paris in June 2004;

(c) OHCHR participated in the official launch of the project "The abolition of slavery route", jointly organized by UNESCO and the Government of France in Champagney, France, in April 2004. Cooperation will be pursued in this respect.

18. Liaison with NGOs, including youth groups, included the following:

(a) Sharing information on a regular basis and facilitating NGO and youth participation in meetings, seminars and workshops to which the Anti-Discrimination Unit is invited or convenes;

(b) OHCHR encouraged NGO action against racism by facilitating the participation of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in the session of the Inter-American Commission on Human Rights held in Washington in March 2004;

(c) Training on international standards against racism and on the Durban Declaration and Programme of Action was provided for a post-graduate course on "Gender, minorities and indigenous peoples" in Maracaibo, Venezuela, in March 2004 and to a panel on multiple forms of discrimination faced by women in Quito in March 2004;

(d) A workshop for NGOs and youth organizations on the "Implementation of the recommendations of the World Conference against Racism" was organized by the OHCHR Sub-Regional Centre for Human Rights and Democracy for Central Africa in Yaoundé in July 2004, with the substantive support of the Anti-Discrimination Unit;

(e) OHCHR organized and sponsored a round table for young people at the World Youth Festival in Barcelona, Spain, in August 2004 under the title "Stand up

against racism!". The Anti-Discrimination Unit also moderated a session on the "Dialogue among Civilizations" at the United Nations Graduate Study Programme in Geneva in July 2004.

19. Publications, awareness-raising and outreach activities included the following:

(a) The World Health Organization (WHO), the Joint United Nations Programme on AIDS (UNAIDS) and OHCHR jointly produced a comic book entitled "HIV/AIDS: Stand up for Human Rights";

(b) Following a workshop jointly organized by OHCHR and UNESCO on the theme "Combating racism and fostering tolerance", a book is being published by OHCHR under the title "Dimensions of racism" in English, French and Spanish;

(c) OHCHR field presences organized a drawing contest for students in Colombia, Mexico, Mongolia, South Africa and the former Yugoslav Republic of Macedonia to highlight the Universal Declaration of Human Rights to promote human rights awareness among students. The selected drawings have served to illustrate a new OHCHR poster on the Universal Declaration, already issued in the six official languages of the Organization;

(d) A panel discussion on "Intercultural dialogue: a means to combat racism" was convened in Geneva on 21 March 2004 to commemorate the International Day for the Elimination of Racial Discrimination.

C. United Nations bodies, specialized agencies, international and regional organizations

20. The United Nations Department of Public Information launched an anti-racism programme in the framework of the World Public Information Campaign, the United Nations Decade for Human Rights Education and the International Decade of the World's Indigenous People. "UN Works" produced and distributed a poster entitled "What colour are you?" and a 30-minute documentary profiling children struggling to overcome the impact of intolerance and violence in Northern Ireland.

21. Many of the activities of United Nations information centres (UNICs) in the follow-up to the World Conference were undertaken in connection with the International Day for the Elimination of Racial Discrimination. UNIC Panama City organized a 10-day interactive film presentation on discrimination and a conference on the impact of the World Conference in Panama. UNIC Rio de Janeiro launched a book entitled *Contemporary Racism*. UNIC Beirut provided background documents, reports and materials for the Beirut daily *Al-Balad* which focused its Sunday, 21 March 2004, United Nations page on the International Day for the Elimination of Racial Discrimination. UNIC Dhaka organized a discussion and a short drama on racism. An exhibition entitled "A kilometre against racism" was organized by UNIC Mexico City, and consisted of 2,000 drawings made by children. UNIC Ouagadougou organized a forum on the theme "Combat racism and xenophobia: a contribution to the prevention of genocides". UNIC Rome assisted the Silvio Pellico high school in the preparation of a CD-ROM on the theme of racial discrimination which is being distributed to schools throughout Italy. A book containing the Italian version of the Durban Declaration and Programme of Action was also launched. An exhibition of children's photographs was organized by UNIC Prague in January

2003. UNIC Rabat organized a seminar to observe the International Day for the Elimination of Racial Discrimination.

22. The United Nations Economic and Social Commission for Western Asia (ESCWA) is placing discrimination and intolerance at the top of its agenda and programme of work. The Declaration of the Arab Decade on Disabled Persons for the years 2004-2012 has been adopted by the Arab Ministers of Social Affairs. As a result, ESCWA organized an Expert Group Meeting on Information and Communication Technologies for Persons with Disabilities in May 2004. ESCWA is also preparing a regional report on integrated social policies, utilizing pertinent social indicators to address specific strategic challenges facing Arab countries in formulating, implementing and monitoring effective social policies.

23. The UNESCO Integrated Strategy to Combat Racism, Discrimination, Xenophobia and Related Intolerance (32C/13), adopted by the thirty-second session of its General Conference, has notably generated the establishment of the International Coalition of Cities against Racism that are committed to an ethical and political charter that takes a firm position against racist ideologies and discriminatory practices. Additionally, an expert meeting for Europe took place on 9 and 10 July in Nuremberg aiming at drafting a regional action plan. In parallel, a research programme has been launched to develop indicators on racism and discrimination, thereby allowing an assessment of the implementation of the 10-point action plan.

24. UNESCO organized in May 2004, in collaboration with the City of Nantes, France, the World Forum on Human Rights at which was discussed, inter alia, "Globalization and the struggle against all forms of discrimination and exclusion" and "The humanism of human rights and the barbarity of the slave trade". UNESCO also organized or participated in the following international conferences dealing with racism, discrimination and intolerance: "National images of the world: unity, diversity and justice", Republic of Moldova, October 2003; "Migrations: social and intercultural aspects of sustainable development", Moscow, March 2004; and "The promotion of ideas of tolerance and the fight against discrimination: the role of local authorities", Russian Federation, March 2004 and Georgia, June 2004. The celebration of the International Day for the Elimination of Racial Discrimination focused on the commemoration of the abolition of slavery.

25. UNHCR actively contributed to the thematic discussion on the rights of non-citizens at CERD. Moreover, refugee-related issues addressed during the World Conference are now integrated into its strategic planning. UNHCR has initiated a broad range of activities at the operational level to prevent racist attacks and discrimination against refugees and to counter the current hostile climate vis-à-vis asylum-seekers and refugees. Such efforts include providing legal counselling services to refugees. "Peaceful Coexistence Initiatives" to promote tolerance as a vital dimension of relief, rehabilitation and reconciliation were successfully tested in the context of refugee return operations in Bosnia and Herzegovina and Rwanda and recently in Sri Lanka and Côte d'Ivoire. In many other countries, UNHCR provided educational materials to schools, in order to enhance understanding of refugee issues. It cooperated with the United Kingdom Press Complaints Commission, which issued guidelines urging journalists and editors to ensure that their reporting did not encourage xenophobia. In early 2004, UNHCR launched

"Return Afghanistan", a photo exhibition by the Swiss photographer Zalmaï, a former Afghan refugee, which provided moving testimony of the plight of refugees.

26. The work of UNODC is guided by the "Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-First Century" and its plans of action (General Assembly resolution 55/59, annex) encouraging States to take steps to incorporate into their national crime prevention strategies measures to prevent and combat crimes inspired by or associated with racism, racial discrimination, xenophobia and related intolerance. UNODC thus helps States to build a capacity for criminal law reform. This Office is also developing a practical manual on the application of the Guidelines for the Prevention of Crime (Economic and Social Council resolution 2002/13, annex), which also covers programmes aimed at preventing xenophobia and specific issues relating to migrants at the community level. In accordance with paragraph 78 (m) of the Durban Programme of Action, UNODC advocates the ratification of the United Nations Convention against Transnational Organized Crime and its protocols, and urges their speedy entry into force. UNODC will assist with the implementation of these instruments. Through its Global Programme against Trafficking in Human Beings UNODC raises awareness of the trafficking in human beings, strengthens institutional capacity to tackle this scourge, trains law enforcement officials, advises on the drafting of relevant national legislation, and enhances victim and witness support programmes.

27. The United Nations Human Settlements Programme (UN-Habitat) considers policies and activities regarding human settlements and housing, individuals and groups suffering from racism, racial discrimination, xenophobia and related intolerance, and vulnerable and disadvantaged groups. In this context, it has intensified its work for inclusive cities and the realization of the right to adequate housing. The Millennium Development Goal to achieve, by 2020, significant improvement in the lives of at least 100 million slum-dwellers (United Nations Millennium Declaration, para. 19) is its guiding principle. The Global Campaign on Urban Governance promotes inclusiveness in urban decision-making as well as in policy and programme implementation. The advocacy and operational work of the Campaign in 32 cities aims at fostering inclusiveness amidst complex diversity and focuses on vulnerable groups. The Global Campaign for Secure Tenure, launched in July 2000, is an advocacy instrument designed to promote the right of the urban poor to participate in processes of settlement upgrading and urban development. Recently, tools and action plans have been developed through the "Three Cities Project" campaign already launched in India, South Africa, the Philippines, Jamaica, Namibia, Brazil and Senegal. UN-Habitat also reported on the "Cities Alliance", a joint initiative of the World Bank, UN-Habitat and other partners aimed at improving the quality of life in slums. Currently, more than 100 slums are being upgraded through this initiative. The United Nations Housing Rights Programme (UNHRP), a joint initiative of OHCHR and UN-Habitat, includes research on the housing rights of indigenous peoples. A set of indicators to monitor the progressive realization of the human right to adequate housing was proposed at an expert group meeting held in Geneva in November 2003, highlighting the need to collect disaggregated data by, inter alia, race and ethnicity. The problem of discrimination is also at the heart of the analytical report that is being prepared on "Housing rights legislation". A regional consultation on the right to adequate housing was convened in Bangkok in June 2004 and focused on the importance of non-discrimination in the sphere of housing.

28. The World Food Programme (WFP) Statement of Humanitarian Principles, recently adopted by its Executive Board, includes the principle of impartiality as a key component: "WFP's assistance will be guided solely by needs and will not discriminate in terms of ethnic origin, nationality, political opinion, gender, race or religion. In a country, assistance will be targeted to those most at risk from the consequences of food shortages, following a sound assessment that considers the different needs and vulnerabilities of women, men and children."

29. The International Federation of Red Cross and Red Crescent Societies (IFRC) organized, in 2003, special Action to Reduce Discrimination. Its briefing paper entitled "Reducing discrimination" states that between July 2003 and July 2004 several reviews, case studies and training courses were carried out on the subject of discrimination in Europe, South Asia, North Africa and Central America. A database of good practices is to be further developed in consultation with partners. National societies often address discrimination from the angle of tolerance and respect for others, such as the "Friendship without Borders" programme organized in the Balkan region. In December 2003, the Council of Delegates adopted resolution 9 on "Promoting respect for diversity and fighting discrimination and intolerance". In addition, at its 28th International Conference of the Red Cross and Red Crescent, the Federation adopted a pledge on non-discrimination and respect for diversity, and subsequently published research papers and training material on these issues.

30. OSCE/ODIHR has established a programme on tolerance and discrimination. The programme is based on mandates contained in the Maastricht Ministerial Council Decision on Tolerance and Non-Discrimination (No. 4/03, December 2003) and the Permanent Council Decision on Combating anti-Semitism (No. 607, April 2004). In 2004, the programme focused on the collection and compilation of information on hate crimes in the 55 participating OSCE States. A workshop, "Hate crimes legislation", for State authorities will be held in the autumn of 2004, in full cooperation with CERD, ECRI and the European Union Monitoring Centre on Racism and Xenophobia (EUMC), as well as relevant NGOs. An expert study has been commissioned to provide a general overview of the activities against racism, related intolerance and discrimination by international bodies acting in the OSCE region. The work of the ODIHR Advisory Panel of Experts on Freedom of Religion or Belief also forms part of this programme. An important component of the programme will be the establishment of a network of partner NGOs to supply data on racist incidents and assist with the monitoring of hate crimes and violent manifestations of racism, xenophobia, anti-Semitism and discrimination. Reports on information collected were made available to the OSCE Permanent Council in July 2004 and will be shared with the Human Dimension Implementation Meeting in Warsaw in October 2004.

31. Within the framework of its Action Plan on Improving the Situation of Roma and Sinti within the OSCE area, the ODIHR Contact Point for Roma and Sinti Issues (CPRSI) is focusing on increasing the participation of Roma in democratic processes. In March 2004, CPRSI organized an international workshop in Prague on models of involving Roma in appointed positions within local and regional administrations. In April 2004, CPRSI and the Romanian Parliament's Chamber of Deputies co-organized an international conference on participation of Roma and minority women in politics.

32. ECRI highlighted the adoption of Protocol No. 12 to the European Convention on Human Rights — containing a general prohibition of discrimination. ECRI further encouraged member States to elaborate national action plans against racism and provided guidance for this process. It has also launched awareness campaigns on racism and intolerance and a package of educational materials for youth. Finally, ECRI has supported non-formal education efforts of NGOs.

33. The European Commission supported the European Union member States' efforts to implement the provisions of the Durban Declaration and Programme of Action. The entry into force of Directives 2000/43/EC and 2000/78/EC considerably strengthened the level of legal protection against discrimination across the European Union, both backed up by an action programme (2001-2006). Twenty-five new projects were launched in the spring of 2004.

34. The European Commission (EC) intensified its activity in tackling social exclusion and discrimination affecting Roma in the enlarged EU. It hosted a conference on the issue in Brussels in April 2004, notably with the participation of Roma representatives. The Commission plans to publish a study on "Roma in an enlarged European Union" in the autumn of 2004. Furthermore, the communication from the Commission on immigration, integration and employment adopted on 3 June 2003 (COM (2003) 336 final) underscores the importance of the fight against discrimination in the integration of legal migrants in Europe by calling for strong political leadership and a clear commitment to promote pluralistic societies and to condemn racism. On 29 April 2004, the European Council adopted a directive on compensation for victims of crimes, including racial crimes. The European Commission's White Paper, "A new impetus for European youth", is in line with the European Council Declaration on Racism and Intolerance in relation to Young People adopted on 28 May 2004. The European Initiative for Democracy and Human Rights pays special attention to the rights of minorities, the rights of indigenous peoples and the issue of caste discrimination, including in relation to non-European countries.

35. In December 2003, the European Council took the decision to extend the mandate of EUMC to become the Fundamental Rights Agency of the European Union. EUMC, based in Vienna, supports the work of the European Union by providing objective, reliable data on racism, xenophobia, Islamophobia and anti-Semitism. Its annual report, with a particular emphasis on racial violence and racial discrimination in education and employment in EU Member States, was presented to the European Parliament. In March 2004, the EUMC issued a report on "Manifestations of anti-Semitism in the EU". A second report, entitled "Perceptions of anti-Semitism in the European Union", compiles interviews with members of the Jewish community in the European Union on their perceptions of anti-Semitism.

36. The European Parliament dedicated a special section of its Report on Fundamental Rights in the European Union to racism and xenophobia. During a hearing organized by the Committee on Justice, Home Affairs and Citizens Rights on 21 January 2004, the question of racism and discrimination was raised by participating NGOs.

D. National human rights institutions

37. The Centre for the Equality of Opportunities and the Struggle against Racism of Belgium provided OHCHR with its comprehensive national action plan against racism. The plan promotes diversity, tolerance and equal treatment to combat discrimination.

38. The Fiji Human Rights Commission established a Race Relations Unit that recently issued a report on Fiji's obligations under the International Convention for the Elimination of All Forms of Racial Discrimination, which eventually led to the creation of a parliamentary committee mandated to examine all reports relating to human rights and race relations in the country. Moreover, a library has been set up with the support of OHCHR. The Race Relations Unit is also preparing a workshop on "human rights for nationalists", in which race would be a key issue, and will be developing flyers, handouts, posters, brochures and postcards to promote peaceful race relations in Fiji.

39. The annual report on racism and xenophobia for the year 2003 of the National Consultative Commission on Human Rights of France evaluates the racist phenomenon from a statistical perspective, with an overview of activities undertaken by the judiciary in this field, and contains a survey on racism and xenophobia, in addition to specific studies on anti-Semitism and Islamophobia. The report also addresses measures taken by the Government and NGOs to combat racism and xenophobia.

40. The Greek National Commission for Human Rights co-organized a conference in April 2003 on the application of European anti-discrimination legislation that was attended by representatives of governmental and non-governmental organizations from Germany, Greece, Ireland, Lithuania and Slovenia. The Commission helped harmonize national legislation with international and European norms regarding discrimination. It has conducted consultations on race issues. It has translated into Greek and published a booklet entitled "International human rights standards for law enforcement: a pocket book for the police". The booklet attempts to change the negative perception of and attitudes towards the police. At present, the Commission is developing a series of TV spots aimed notably at addressing discriminatory attitudes towards immigrants and the Roma community.

41. The National Human Rights Commission of the Republic of Korea is in the process of drafting the Discrimination Prohibition Act, to be promulgated by the end of 2004. Racial discrimination, hate crimes and intolerance will be explicitly prohibited. Furthermore, it is developing the framework for a national action plan for human rights. The Commission has also conducted studies on groups that are vulnerable to racial discrimination, in particular children of the prostitutes working near United States military bases, Chinese residents in Korea and children of migrant workers. The studies show that ethnic minorities face severe discrimination and are systematically marginalized. The Commission is developing a minority index with a view to facilitating affirmative action for minorities. Finally, the Commission published a book on the rights of migrant workers and a textbook on the work of CERD, and produced a movie on human rights.

42. With the support of OHCHR, the National Human Rights Commission of Mongolia conducted a study on the rights of the Tsaatan national minority. It organized a round table to present the findings of the study and developed a TV

documentary to educate the public about the rights of the Tsaatan people. On the basis of the study, specific recommendations were formulated for the attention of the Government.

43. The Human Rights Commission of New Zealand, in its publication "On the bright side", acknowledged contributions to positive race relations in the areas of sports, law, business, education, the arts, tourism, migration, political participation and the media.

44. In 2003, the National Commission for Human Rights and Fundamental Freedoms of Niger, with the support of OHCHR, conducted a study on contemporary forms of slavery in the country, with the double objective of sensitizing key actors on its manifestations and proposing concrete measures to political leaders for combating slavery.

45. The South African Human Rights Commission has the responsibility to request, analyse and assess equality reports from the State and public and private institutions under the Promotion of Equality and Prevention of Unfair Discrimination Act. In addition, it is tasked with assisting vulnerable groups in bringing their cases to court. The Commission also completed diversity training with the police, medical personnel, social workers, civil servants, educators and private companies. It also played a central role in inserting anti-discrimination principles into school curricula. Through the Forum on Racism in Education, the Commission intends to develop a racial index with the purpose of proposing informed intervention. Plans are under way to undertake an Equality Barometer study that will evaluate the Government's structural policies to reduce discrimination based on race, gender and disability. The Commission contributed to the development of the National Action Plan against Racism. Finally, as a result of complaints received, the Commission held a series of hearings around the country on human rights violations in farming communities, the results of which were published in a report.

46. The Federal Commission against Racism of Switzerland produced a report on the current status of the struggle against racism in the country. Besides acting as a mediator in conflicts between the police and people of African descent, it has launched specific programmes and research activities on racism suffered by people of African descent. The Federal Commission against Racism published research studies on "The exclusion of asylum-seekers with provisional admission status in Switzerland" and on "The status of minority religions in the Swiss cantons". The Commission also contributed to the published annotated version of the Durban outcome. The autumn 2004 bulletin of the Federal Commission, called "Tangram", will be devoted entirely to health and racism, one of the major topics identified for discussion by the Working Group of Experts on People of African Descent and the Intergovernmental Working Group.

47. The Defensoría del Pueblo of Venezuela provided OHCHR with a report on activities it had undertaken to implement the Durban Declaration and Programme of Action. Its sphere of competence covers mainly legal analysis and advice, advocacy on behalf of victim groups and support for action plans, including programmes of affirmative action that would benefit in particular victims of racial discrimination in the areas of employment, housing, and education.

E. Non-governmental organizations

48. The Urban Justice Center Human Rights Project, based in New York City, promotes respect for the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the implementation of general comments and recommendations emanating from CERD. This effort, undertaken in conjunction with other NGOs working in the field of human rights, entails working at the city government level as well as with community-based organizations to ensure that in the process of developing and adopting new legislation, those affected by racism and racial discrimination are taken into account. The Project is involved in the Right to Education Project, a project aimed at training public high school students to document violations of the right to education, including discrimination, in their schools.

49. The European Jewish Congress and the World Jewish Congress noted that violence against Jewish communities continued to rise, including anti-Semitism in the media and among the public at large. Anti-Semitism seems more focused on the State of Israel, while previously it was mainly directed at Judaism as a religion. To this effect, the European Jewish Congress referred to important initiatives by OSCE, the European Commission and the Council of Europe. During the Regional Expert Seminar to Study Modalities for the Implementation of the Durban Declaration and Programme of Action, organized by OHCHR in Brussels in December 2003, Jewish NGO representatives stated that anti-Semitism stems not only from far-right racist groups but also, increasingly, from new directions.

50. The mission of the Anti-Defamation League is, notably, to combat anti-Semitism and bigotry and to monitor and respond to anti-Semitic attitudes. It publishes monthly reports highlighting acts of anti-Semitism. In April 2004, the League released an opinion survey entitled "Attitudes towards Jews, Israel and the Palestinian-Israel Conflict in ten European Countries". The countries surveyed were Austria, Belgium, Denmark, France, Italy, Germany, the Netherlands, Spain, Switzerland and the United Kingdom. The poll found a decrease in anti-Semitic attitudes in almost all the countries surveyed. The League considers that when leaders and institutions speak out and take action to combat anti-Semitism, not only does the number of acts of anti-Semitism decrease, but so do negative attitudes towards Jews.

51. The Grail, an international movement of Christian women concerned with the advancement of women, organized a visit by Muslim women from Turkey, Serbia and Albania to a synagogue in Duisburg, Germany, during "Cultural Week". The women were interested to learn more about Jewish life and the practice of the religion. By visiting the synagogue, they wanted to express their desire for peaceful coexistence among all religions and peoples. They discovered many commonalities in Judaism and Islam.

52. The Women's Zionist Organization of America, Hadassah, supports and administers a number of humanitarian activities, primarily in Israel, and focuses on promoting human rights, women's rights and peace among nations. The organization cited cases of peaceful coexistence between Arabs and Jews. Hadassah matches youth volunteers with organizations working to strengthen democracy and supports social justice in areas such as human rights, especially the right to health and women's rights, Jewish and Arab coexistence, as well as projects to bring together

Arab and Jewish children. It tries to build a constructive future based on brotherhood, assisting children to improve educationally and helping them to address psychological problems.

53. In its report, B'nai Brith praised the Secretary-General's opening remarks at the Seminar on Anti-Semitism organized by the Department of Public Information of the Secretariat in New York on 21 June 2004. In his statement, the Secretary-General said that the United Nations human rights machinery was mobilizing in the battle against anti-Semitism. He urged the Special Rapporteurs on freedom of religion or belief and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to actively explore ways of combating anti-Semitism more effectively in the future. He also said that Member States could follow the excellent lead of the Berlin Declaration, which firmly condemned all manifestations of anti-Semitism, and other acts of intolerance, incitement, harassment, or violence against persons or communities based on ethnic origin or religious belief, wherever they occurred.

54. The Afro-Asian Peoples Solidarity Organization (AAPSO) organized in 2003 a conference in Cairo on the effects of regional and international incidents on human rights and a meeting on democracy and human rights was held. Its representatives participated in several panels, and organized workshops during the Commission on Human Rights and the Subcommission on the Promotion and Protection of Human Rights to follow up on the Durban Declaration and Programme of Action. AAPSO also organized a panel discussion on racial discrimination during the World Social Forum held in Mumbai, India, in 2004. Additionally, AAPSO has issued several statements on issues relating to racism and racial discrimination, including during the International Day of Solidarity with the Palestinian People, in November 2003.

55. The Institución Federada Afroumbandista of Uruguay worked with the media and Catholic schools to promote respect for diversity, including religious diversity and the defence of Umbanda and African forms of worship. At present, the organization has successfully lobbied for the amendment of national legislation dealing with freedom of religion and documented acts against practitioners of religions of African origin.

56. The English International Association of Lund, Sweden, in the past year has developed anti-discrimination strategies aimed at promoting a gender balance and the rights of people discriminated against on the basis of sexual orientation, physical disability or ethnic origin. It conducted awareness-raising by providing its services to the general public, teachers and students at all levels. The Association co-hosts a weekly programme on Radio AF International with the International Secretariat of the University of Lund. The target audience is foreign students and researchers, and first- and second-generation immigrants. It also provides legal assistance at the national and international level to victims of discrimination. It organized a conference on racial discrimination for Swedish universities and developed affirmative action policies for foreign-born teachers. The Association has also published a booklet entitled "Your legal rights, protection from discrimination in Sweden".

57. The Association of World Citizens has recently created a web site entitled "My human rights", in English and Chinese, which deals with the philosophy and practice of human rights. World Citizens in the last year has also worked in a refugee camp in Ghana to support refugees from Liberia. The organization provides

training in conflict resolution and promotes mutual understanding in preparing refugees for return to their home country.

58. Interfaith International actively participated in the sessions of the mechanisms established to follow up on the World Conference. During the second session of the Intergovernmental Working Group, Interfaith made a contribution on the subject of education for tolerance. It also submitted a report on intercultural dialogue to the independent eminent experts' meeting in September 2003.

59. The Canadian Race Relations Foundation facilitated the participation of civil society during the visit of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his consultations with communities across Canada during his visit to the country. In March 2003, the Foundation convened an ad hoc round table on redress at its Awards of Excellence Symposium, in order to facilitate a discussion on redress and reparations among members of communities seeking redress in Canada, including the Chinese, Ukrainian, African Canadian and Jewish communities. The objective of the discussion was to develop strategies to continue the dialogue with governmental authorities. The Foundation has established an ad hoc committee to determine an appropriate course of action for the Foundation on that issue. The Foundation continues to play a central role in the ongoing discussion and development of knowledge about racial profiling. It has provided support to community-based initiatives within the African Canadian community to report on manifestations of racial profiling and best practices from other jurisdictions. It also continues to sensitize the policing services and other security-oriented agencies on racial profiling, to enhance education and training, and to lobby for systemic change. It provided expert testimony as a friend of the court on various hate/bias crime cases in the past year, including the incitement of hatred on the Internet, and hosted a biannual national award of excellence programme, celebrating organizations and individuals who lead by example in anti-racism practices, bringing together Canadian practitioners, academics, activists, community organizations, youth and Government. The last meeting focused on "Racism: breaking through the denial".

60. The Institute for Refugee and Minority Problems of the Caucasus region works primarily on programmes developing dialogue among Georgians and Abkhazians and Georgian and Ossetians and confidence-building measures. It also works on the integration of refugees from Chechnya and income-generation projects. From September 2003 until April 2004, during the Georgian presidential and parliamentary elections, the Institute worked to protect and promote ethnic minorities' rights by holding training sessions on electoral rights in the Armenian, Georgian, Russian and Azeri languages. The Institute has also broadcast television spots against religious intolerance and promoted dialogue among different faiths, targeting youth in particular.

61. The International Association of Lions Clubs is open to any person of legal age, good moral character and good reputation in the community. The organization is based in 193 countries. Members are accepted irrespective of their race, colour, religion, creed, national origin, ancestry, gender, marital status, age, disability, veteran status or any other legally protected status. During its 87 years of activity, the Association has demonstrated its stand against discriminations. The organization maintains a strict policy of non-discrimination in its hiring practices and affirms a policy of non-discrimination in all programmes and activities.

62. The Muslim World League at the United Nations Office at Geneva recalled the numerous activities organized since the preparatory phase of the World Conference, which included some 15 meetings and seminars attended by its representatives, two others organized under its auspices and some five publications, all relating to the fight against all forms of discrimination.

F. Youth groups and organizations

63. The Canadian Race Relations Foundation reported that the development of a National Youth Anti-Racism Network (NYAN) is well under way. The Network is being set up with the expert guidance of an ad hoc youth advisory committee made up of youth representatives from across Canada. The NYAN web site is a key component of the Network and will be on line in the coming months. In addition, a database of youth anti-racism contacts is being developed. The Canadian Race Relations Foundation also facilitated the participation of a representative of the organization Black Youth in Action at the sixtieth session of the Commission on Human Rights in Geneva.

64. The NGO MADRE, in Peru, is partnering with organizations of young people around the world to achieve the goals set forth in the Durban Declaration and Programme of Action. Offering resources, training and technical support, MADRE facilitates the work of young activists from marginalized communities as they struggle against racism. In Peru, MADRE works with LUNDÚ (the Centre for Afro-Peruvian Studies and Promotion), an organization of Afro-Peruvian youth working to promote respect for Peru's Afro-descendant population, by supporting arts education, including a workshop aimed at challenging stereotypes of people of African descent in Peru through the use of masks. In Guatemala, MADRE is helping T'al Nán K'oi, a youth group working to strengthen the relationship of the community with its Mayan heritage and to find solutions for extreme poverty. In Colombia, MADRE supports Taller de Vida, an organization providing services for displaced Afro-Colombian and indigenous youth. Among other activities, MADRE supported the creation of a video project in which young people document their experiences with war and displacement. Lastly, in the Dheisheh refugee camp in Palestine, MADRE works with the Ibdaa Cultural Centre to promote human rights, democratic processes and gender equality, empowering Palestinian youth to respond constructively to the violence permeating their lives and to channel fears and frustrations into progressive demands for change.

65. The Kenwood Oakland Community Organization in the United States organized a national youth conference in April 2004 under the title "Towards a common struggle: organizing a national agenda for a young people's movement". Over 400 young people from a diversity of backgrounds and representing six states participated in the conference, which focused on building leadership capacity and community-organizing skills in local communities, with the ultimate objective of building a nationwide multi-ethnic youth network against racism in the United States.

III. Conclusions

66. **The present report illustrates that States, United Nations bodies, specialized agencies, international and regional organizations as well as non-governmental organizations and youth groups and organizations are engaged in implementing the Durban Declaration and Programme of Action. It is to be noted that a larger number of stakeholders than previously responded to the request for information by OHCHR. Generally, one can note an increasing involvement by different actors in the implementation of the recommendations of the World Conference. The frequent manifestations of racism, racial discrimination, xenophobia and related intolerance worldwide indicate, however, that further determined efforts to combat these phenomena, including close cooperation of all actors, are necessary.**

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Agenda item 104
Right of peoples to self-determination

Right of peoples to self-determination

Report of the Secretary-General*

Summary

In its resolution 58/161 of 22 December 2003, the General Assembly, inter alia, requested the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation, and requested the Secretary-General to report on this question to the Assembly at its fifty-ninth session under the item entitled "Right of peoples to self-determination".

* The present report was submitted with a delay in order to finalize internal consultations on the material to be included in it.

04-51855 (E) 081004

I. Introduction

1. The principle of self-determination has been enshrined in article 1, paragraph 2, of the Charter of the United Nations.

2. Under the terms of resolution 2625 (XXV), "Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle ...".

3. Article 1 common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights reaffirms the right of all peoples to self-determination, and lays upon States the obligation to promote the realization of that right and to respect it, in conformity with the provisions of the Charter of the United Nations.

4. The International Court of Justice considered that "the right of peoples to self-determination, as it evolved from the Charter and from United Nations practice, has an erga omnes character".[1]

5. The present report contains an account of a consideration of the issue "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at the sixtieth session of the Commission on Human Rights and the advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory (see A/ES-10/273).

II. Sixtieth session of the Commission on Human Rights

6. During its sixtieth session, under agenda item 5, the Commission on Human Rights discussed "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation". Three resolutions were adopted by the Commission under item 5: resolution 2004/3 on the "Situation in occupied Palestine"; resolution 2004/4 on the "Question of Western Sahara"; and resolution 2004/5 on "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination".

7. In paragraph 1 of its resolution 2004/3, the Commission on Human Rights reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to establish their sovereign and independent Palestinian State and looked forward to the early fulfilment of that right. In paragraph 2, it requested the Secretary-General to transmit the resolution to the Government of Israel and all other Governments, to disseminate it on the widest possible scale and to make available to the Commission, prior to its sixty-first session, all information pertaining to the implementation of the resolution by the Government of Israel. In paragraph 3, the Commission decided to include in the agenda of its sixty-first session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or

foreign occupation" and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

8. In its resolution 2004/4, the Commission on Human Rights recalled Security Council resolutions 1359 (2001) and 1429 (2002), as well as resolution 1495 (2003), in which the Council expressed its support for the peace plan for self-determination of the people of Western Sahara as an optimum political solution on the basis of agreement between the two parties. The Commission noted with satisfaction the entry into force of the ceasefire in accordance with the proposal of the Secretary-General and stressed the importance that it attached to the maintenance of the ceasefire as an integral part of the settlement plan. The Commission recalled that the General Assembly had examined the report of the Secretary-General (A/58/171) and, in paragraph 3, it strongly supported the efforts of the Secretary-General and his Personal Envoy in order to achieve a mutually acceptable political solution to the dispute over Western Sahara. In paragraph 5, the Commission called upon all the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy; in paragraph 7, it called upon the parties to cooperate with the International Committee of the Red Cross in its efforts to solve the problem of the fate of people unaccounted for, and called upon the parties to abide by their obligation under international humanitarian law to release without further delay all those held since the start of the conflict. In paragraph 8, the Commission noted that the Assembly had requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara and to report thereon to the Assembly at its fifty-ninth session.

9. In paragraph 3 of its resolution 2004/5, the Commission on Human Rights reaffirmed that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations. In paragraph 4, it recognized that armed conflicts, terrorism, arms trafficking and covert operations by third Powers encourage the demand for mercenaries on the global market. In paragraph 5, the Commission urged all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State, or dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right to self-determination of peoples. In paragraph 12, the Commission condemned recent mercenary activities in Africa and the threat they pose to the integrity and respect of the constitutional order of these countries and the exercise of the right to self-determination of their peoples. In paragraph 14, it called upon the international community to cooperate with and assist the judicial prosecution of those accused of mercenary activities, in accordance with their obligations under international law, in transparent, open and fair trials. In paragraph 15, the Commission requested the new Special Rapporteur on mercenaries to circulate to and consult with States on the new proposal for a legal definition of a mercenary and to report his/her findings back; in paragraph 16 and 17, it requested the Office of the United Nations High Commissioner for Human Rights to convene a third meeting of experts on

traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of peoples to self-determination; and to publicize the adverse effects of mercenary activities on the right of peoples to self-determination and, when requested and where necessary, to provide advisory services to States that are affected by these activities. In paragraph 21, the Commission requested the new Special Rapporteur on mercenaries to consult States and intergovernmental and non-governmental organizations in the implementation of the resolution and to report, with specific recommendations, his/her findings on the use of mercenaries to undermine the right of peoples to self-determination to the Commission at its sixty-first session.

III. Advisory opinion of the International Court of Justice on the legal consequences of a wall in the occupied Palestinian territory

10. On 8 December 2003, in its resolution ES-10/14, the General Assembly decided to request the International Court of Justice urgently to render an advisory opinion on the legal consequences of the construction of a wall in the occupied Palestinian territory. On 9 July 2004, the International Court of Justice delivered its advisory opinion. On 13 July 2004, the Secretary-General received this advisory opinion of the Court and transmitted it to the General Assembly, as well as the separate opinions and the declaration appended thereto (see A/ES-10/273).

11. The International Court of Justice found that the construction of the wall by Israel "in the occupied Palestinian territory, including in and around East Jerusalem, and its associated régime, are contrary to international law" (ibid., para. 163.3.A). The Court considered that the construction of the wall and its associated regime "create a 'fait accompli' on the ground that could well become permanent", in which case the construction of the wall would be "tantamount to de facto annexation" (ibid.). It further noted that "the route chosen for the wall gives expression in loco to the illegal measures taken by Israel with regard to Jerusalem and the settlements" (ibid., para. 122), and deplored by the Security Council,[2] and that it entails "a risk of further alterations to the demographic composition of the occupied Palestinian territory" (A/ES-10, 273, para. 122). The International Court of Justice found that the construction of the wall, "along with measures taken previously, thus severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel's obligation to respect that right" (ibid.).

Notes

[1] *East Timor, I.C.J. Reports 1995*, p. 102, para. 29.

[2] See Security Council resolutions 298 (1971), 446 (1979), 452 (1979), 465 (1980), 478 (1980).

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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Report on the human rights of migrants submitted by the Special Rapporteur of the Commission on Human Rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report on the human rights of migrants submitted by Gabriela Rodríguez Pizarro, Special Rapporteur of the Commission on Human Rights, pursuant to General Assembly resolution 58/190 and Commission resolution 2004/53.

04-52067 (E) 131004 141004

Summary

The present report contains an update on the work of the Special Rapporteur on the human rights of migrants since the presentation of her fifth report to the Commission on Human Rights (E/CN.4/2004/76 and Add.1-4).

The report summarizes the activities carried out during the period under review. The Special Rapporteur notes a continuing deterioration in the human rights situation of migrants and in particular of those with irregular administrative status.

The Special Rapporteur describes a series of developments that took place during the period under review and which have been instrumental in promoting the protection of the human rights of migrants. She notes the scant attention paid to the human rights of this vulnerable group in debates on immigration policy and the need to recognize these rights in practice. The Special Rapporteur welcomes the emergence of many consultative processes in the area of migration management. She nevertheless considers it necessary to share with the General Assembly her thoughts on a number of issues of particular concern which, in her view, require urgent attention.

The Special Rapporteur asks Member States to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the United Nations Convention against Transnational Organized Crime, as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. She believes that regularization procedures for immigrants with irregular administrative status must be carried out with absolute respect for the human rights of those concerned, so that they cannot be blackmailed if regularization is left to their employers. Lastly, she urges the General Assembly to continue its work on the codification of the draft articles on responsibility of States for internationally wrongful acts, submitted by the International Law Commission, and urges the Commission on Human Rights to do likewise with regard to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law.

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I. Introduction

1. The present report is the third to be submitted to the General Assembly by Gabriela Rodríguez Pizarro, Special Rapporteur of the Commission on Human Rights on the human rights of migrants, pursuant to General Assembly resolution 58/190 and Commission resolution 2004/53.

2. This report covers the activities carried out during the period 1 August 2003 to 30 August 2004. It underscores certain issues of concern which, in the Special Rapporteur's view, require urgent attention. Owing to spatial limitations and in order to avoid needless duplication, reference will be made where necessary to previous reports on the issue where the questions raised are dealt with at length. The report also describes significant developments in relation to the protection of the human rights of migrants that have occurred during the period under review.

II. Mandate

3. The activities of the Special Rapporteur are carried out in accordance with the Commission on Human Rights resolution 1999/44, by which the Commission established the mechanism and defined its functions. At its fifty-eighth session the Commission decided, by its resolution 2002/62, to extend the Special Rapporteur's mandate by a further three years.

4. The international legal framework for the Special Rapporteur's work is set out in her second report to the Commission on Human Rights at its fifty-seventh session (E/CN.4/2001/83 and Add.1). The methods of work adopted by the Special Rapporteur were described in her first report to the General Assembly (A/57/292).

III. Activities

A. Summary of activities

5. The report submitted by the Special Rapporteur to the Commission on Human Rights at its sixtieth session (E/CN.4/2004/76 and Add.1-4) contains a summary of the meetings and activities in which the Special Rapporteur participated from July to November 2003. During the period not covered by that report, the Special Rapporteur took part in the following events:

(a) On 10 and 11 November 2003, she spoke at a seminar entitled "Migration management in an international, European and national perspective", organized in Oslo by the Directorate of Immigration;

(b) On 20 and 21 January 2004 she participated in an expert meeting in Geneva, organized by the Global Commission on International Migration;

(c) On 22 and 23 January, she attended a colloquium entitled "Migration and the new international division of labour", organized by the Graduate Institute of Development Studies of the University of Geneva;

(d) From 26 to 30 January, she participated in a regional workshop on human rights and trafficking in persons, organized in Costa Rica by Global Rights: Partners for Justice. The Special Rapporteur provided information on the provisions of the

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(e) From 22 to 29 February she paid an official visit to the Islamic Republic of Iran;

(f) On 1 March she participated in a thematic discussion on non-citizens and racial discrimination, organized by the Committee on the Elimination of Racial Discrimination. The purpose of the meeting was to continue with the drafting of the revised general recommendation on non-citizens;

(g) On 2 March, she was invited to participate in the first session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Special Rapporteur and members of the Committee decided to remain in regular contact, which would enable them to exchange views on particular subjects and to coordinate the work of both mechanisms;

(h) From 5 to 8 April, the Special Rapporteur presented her fifth report to the Commission on Human Rights at its sixtieth session. The report focused on the living, working and employment conditions of migrant domestic workers. There are four addenda to the report, containing details of communications with Governments and reports on the visits to Spain, Morocco and the Islamic Republic of Iran. On 6 April, the Special Rapporteur took part in a panel discussion on the human rights of migrants organized by Migrants Rights International, Migrant Forum in Asia and RESPECT: European Network of Migrant Domestic Workers. On 7 April she organized an information meeting on the content of her annual report for non-governmental organizations (NGOs) attending the sixtieth session of the Commission. On 8 April she took part in a panel discussion entitled "Labour migration and human rights", organized by the Steering Committee of the Global Campaign for the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(i) From 13 to 15 April she travelled to Barcelona, Spain, at the invitation of Observatori DESC, to make a public presentation of her report on the visit to Spain at the Faculty of Law of Pompeu Fabra University. The Special Rapporteur met authorities of the Catalan Autonomous Community and representatives of civil society;

(j) From 17 to 21 May, she participated in the Ninth Meeting of the Regional Conference on Migration, held in Panama City. The meeting was attended by the Vice Ministers of Belize, Canada, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and the United States of America;

(k) From 9 to 18 June, she paid an official visit to Italy, on which the Special Rapporteur will report to the Commission on Human Rights at its next session;

(l) From 21 to 25 June, she participated in the eleventh annual meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights. The meeting adopted, inter alia, a joint statement on the human rights of migrants (see E/CN.4/2005/5, annex I);

(m) On 20 and 21 July, she participated in a research workshop in Geneva, organized by the United Nations University, as part of a project entitled "Structural approaches to understanding and combating human trafficking";

(n) From 26 to 29 July she attended the Hemispheric Conference on Migration Policy, held in Quito during the First Social Forum of the Americas, which is part of the World Social Forum agenda of regional and thematic social forums;

(o) From 2 to 5 September, she has been invited to participate in the plenary meeting of the Human Movements and Immigration (HMI) World Congress, organized as part of Forum Barcelona 2004. The Special Rapporteur will also organize a dialogue entitled "Good governance and shared responsibility";

(p) On 9 and 10 September she will participate in the Berne Initiative regional consultations for the Americas in Santiago, Chile;

(q) 20-30 September the Special Rapporteur will pay an official visit to Peru.

B. Observations

1. Visits

6. During the period under review, the Special Rapporteur carried out official visits to Spain, Morocco, the Islamic Republic of Iran and Italy. At the sixtieth session of the Commission on Human Rights, she presented reports on her missions to Spain and Morocco, carried out in 2003 (E/CN.4/2004/76/Add.2-3) and a preliminary note on her February 2004 visit to the Islamic Republic of Iran (E/CN.4/2004/76/Add.4). Since then the Special Rapporteur has visited Italy and is planning a visit to Peru in September 2004. She has also expressed a wish to visit Burkina Faso and Côte d'Ivoire in early 2005 and efforts are being made to find dates that will suit all parties.

7. Ever since she began her work, the Special Rapporteur has focused in large part on "fault lines". During the first years of her mandate, for example, she analysed the migratory flows triggered by the economic disparities between the countries to the north of the United States-Mexico border and those to the south;[1] during the period covered by the present report she has concentrated on the European and Mediterranean migratory context. Following her visits during the past year to Spain, Morocco and Italy, the Special Rapporteur hopes to be able to complete her work with a visit to sub-Saharan Africa in early 2005.

8. In addition, the issue of mixed migration and its relationship to refugee outflows prompted the Special Rapporteur in February 2004 to visit the Islamic Republic of Iran, where she concentrated on the so-called voluntary repatriation programmes. The Special Rapporteur submitted a preliminary note on this visit to the Commission on Human Rights at its sixtieth session in advance of the report to be presented at the Commission's next session.

9. The Special Rapporteur has continued to work on the follow-up to the recommendations contained in the reports on her visits. On 7 November 2003 she sent a letter to the Government of Canada concerning implementation of the recommendations contained in her report (E/CN.4/2001/83/Add.1).[2] Similar letters will be sent in the near future to the other States she has visited. The Special

Rapporteur wishes to thank the Mexican National Institute for Migration (INM) for its invitation to take part in a working meeting to be held in January 2005 to review actions taken by INM on the recommendations contained in document E/CN.4/2003/85/Add.2.

2. Case studies

10. In all her work, as mandated by the Commission on Human Rights, the Special Rapporteur takes into account a gender perspective when analysing information received and pays special attention to cases of discrimination and violence against women. She also considers it essential to take account of the composition and source of migration flows in order to better protect the human rights of migrants, given the risks and abuses they may face during the migration process.

11. The report presented by the Special Rapporteur to the Commission on Human Rights at its sixtieth session (E/CN.4/2004/76) focused on the living, working and employment conditions of migrant workers employed in domestic service. In the Special Rapporteur's view, the situation of this group illustrates three of the most important challenges of international migration in modern times: first, the extent and feminization of migration. What is new about these movements is no longer their magnitude so much as the increase in the number of countries of origin and the high proportion of women involved, particularly in certain Asian countries; second, the difficulty of obtaining recognition of the human rights of immigrants, particularly those with irregular administrative status; and lastly, the need for rights-based migration management.

12. Using the broad definition of the tasks involved in domestic service developed by the International Labour Organization (ILO),[3] the Special Rapporteur analysed in her report the treatment of female migrant workers employed in this sector in the light of the principal international human rights instruments and the legal framework developed by ILO in this area. The Special Rapporteur observes again in her report that, even when there exists a range of basic human rights norms that are applicable to non-citizens, the reality that immigrant women — particularly those in domestic service — face is a far cry from what is laid down in international law. Women employed in domestic service must accept abusive clauses in their contracts, are lured into debt by recruitment agencies, have their documents withheld and, in many cases, are subjected to ill-treatment and sexual violence by their employers. The Special Rapporteur describes how many women selected by recruitment agencies end up as victims of trafficking and, consequently, of labour exploitation which may involve conditions that are tantamount to servitude or forced labour. In the Special Rapporteur's view, the reason for the abuse and discrimination suffered by these women is their triple status as women, immigrants and, in many cases, as undocumented persons.

13. In her report the Special Rapporteur encourages States which admit such workers under a sponsorship and special visa system to review their legislation and ensure that the workers' status does not depend directly on the employment relationship with a given employer, since such dependent status leaves these women without protection and even leads them to remain silent about abuses for fear of being dismissed and/or repatriated.

3. Cases of violations of human rights of migrants

14. During the period under review, the Special Rapporteur continued to receive complaints of alleged violations of the human rights of migrants. Addendum 1 to the report submitted to the Commission (E/CN.4/2004/76/Add.1) includes the texts of complaints sent to governments between January and December 2003, as well as replies received from governments. The communications sent and received since then will be summarized in the report to be submitted by the Special Rapporteur at the next session of the Commission.

15. Pursuant to the working methods adopted, the complaints received were transmitted to the governments concerned, in accordance with the urgent appeals and letters of allegation procedures. The situations in which violations of the human rights of this group are alleged to have occurred during the period under review, giving rise to the intervention of the Special Rapporteur, include cases of: (a) arbitrary detention; (b) harsh detention conditions; (c) torture and abuse during detention, including cases involving unaccompanied minors; (d) denial of the right to consular protection for detained immigrants, even in the case of immigrants sentenced to death; (e) deaths of immigrants in police custody; (f) deaths as a result of the excessive use of force by members of the police and security forces; (g) failure to provide minimum guarantees of a fair trial; (h) refoulement at the border as a result of arbitrary decisions; (j) summary expulsions; (k) massive deportations and violations of the human rights of deported persons; (l) impunity for crimes committed against immigrants; and (m) gender violence.

16. In her communications to governments, the Special Rapporteur has also expressed her concern at a number of situations involving violations of the human rights of migrant workers, including: (a) abusive working conditions imposed by employers, sometimes under conditions similar to slavery or forced labour; (b) withholding of passports; (c) non-payment of wages; (d) restrictions on freedom of movement, verbal and physical abuse and precarious conditions in housing that employers may be required to provide; (e) denial of the right of association and assembly; and (f) abuses by migrant worker recruitment agencies resulting from inadequate regulation of the sector.

17. As she has done in the past, the Special Rapporteur has transmitted to governments her concerns regarding alleged acts of intimidation against members of immigrant associations, labour unions and non-governmental unions specializing in human rights and migration.

18. Through the letters of allegation procedure, the Special Rapporteur has requested certain governments to supply information on the application of current immigration laws and bilateral agreements for hiring migrant workers directly from their country of origin. The purpose of these communications is to verify respect for minimum standards of protection of the human rights of this vulnerable group. The Special Rapporteur also often sends communications requesting information on measures taken by specific States to deal with illicit trafficking of immigrants and trade in human beings, and protect the victims of these types of offences.

19. During the period under review, communications were sent jointly by the Special Rapporteur and by the following special public mechanisms of the Commission on Human Rights: Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the

right to freedom of opinion and expression; Special Rapporteur on torture; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on violence against women, its causes and consequences; Working Group on Arbitrary Detention; Special Representative of the Secretary-General on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on the sale of children, child prostitution and child pornography. The Special Rapporteur would like to point out that although the communications sent to the governments concerned refer to individual cases or specific situations of alleged violations of human rights, that does not mean that they are not representative of the situations faced by this group on a daily basis.

20. The Special Rapporteur is now preparing her next report to the Commission on Human Rights. In it she will examine the progress observed in the protection of human rights of migrants since the establishment of the office of Special Rapporteur in 1999 and the challenges posed by the phenomenon.

IV. Human rights of migrants

A. Developments during the period 2003-2004

21. The Special Rapporteur would like to draw attention to a number of developments that occurred between 2003 and 2004 which attest to the significant progress that has been made in protecting the human rights of migrants.

22. After the entry into force on 1 July 2003 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and pursuant to article 72 thereof, the members of the body responsible for monitoring the application of the Convention were elected at a meeting of States parties convened by the Secretary-General in December 2003 at United Nations Headquarters. The Special Rapporteur welcomes with satisfaction the establishment of the Committee and is pleased to inform the General Assembly that she met the members of the Committee at its first session, held in Geneva from 1 to 5 March 2004. At that meeting, the members of the Committee and the Special Rapporteur agreed on the importance of strengthening cooperation between the United Nations mechanisms responsible for protecting human rights during the migration process and decided to meet on a regular basis from then on to exchange views on certain matters and coordinate their activities.

23. In the framework of the mechanisms set up under United Nations human rights conventions, the Special Rapporteur wishes also to draw attention to general recommendation XXX, on discrimination against non-citizens, which was adopted by the Committee on the Elimination of Racial Discrimination at its sixty-fifth session in August 2004 to replace general recommendation XI (1993). She shares the view of the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights, Mr. David Weissbrodt, to the effect that "since problems relating to the treatment of non-citizens arise under each of the seven principal human rights treaties, it would be desirable for the treaty bodies jointly to ... establish a consistent, structured approach to the protection of the rights of non-citizens" (E/CN.4/Sub.2/2003/23, para. 33). The adoption of general recommendation XXX will make it possible to move in that direction.

24. The Special Rapporteur welcomes the entry into force, on 29 September 2003, of the United Nations Convention against Transnational Organized Crime. She is also encouraged by the fact that the two protocols supplementing the Convention, i.e., the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, entered into force on 25 December 2003 and 28 January 2004, in that order. Pursuant to article 32 of the Convention, the first session of the Conference of the Parties to the Convention was held in Vienna from 28 June to 9 July 2004.

25. With regard to mechanisms other than conventions, the Special Rapporteur wishes to draw attention to decision 2004/110, adopted by the Commission on Human Rights at its sixtieth session, providing for the appointment, for a period of three years, of a Special Rapporteur whose mandate will focus on the human rights aspects of the victims of trafficking in persons, especially women and children. The Commission requested the Special Rapporteur to submit an annual report, together with recommendations, on measures required to uphold and protect the human rights of the victims.

26. Over the past few months, United Nations agencies and other international organizations have also paid special attention to the phenomenon of migration. The Special Rapporteur welcomes with satisfaction the establishment of the so-called Geneva Migration Group (GMG). Senior officials of the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees, the International Labour Organization (ILO), the International Organization for Migration (IOM), the United Nations Conference on Trade and Development and the United Nations Office on Drugs and Crime have agreed to establish an informal mechanism for holding regular consultations for the purpose of, inter alia: exchanging information; identifying critical issues, gaps, best practices, etc., along the migration "life cycle"; agreeing on common positions, responses and actions; providing direction and leadership; contributing to major initiatives of GMG members and the international community; promoting interest, dialogue and debate on migration-related issues; and working towards integrating human rights, refugee protection and criminal justice dimensions in the general debate on migration.[4]

27. At its ninety-second session, held in Geneva in June 2004, the International Labour Conference announced the adoption of a plan of action on migration to guarantee that migrant workers will be protected by international labour standards, national legislation and legislation relating to social protection. It is very important that the ILO plan envisage the development of a non-binding multilateral framework to promote rights-based actions relating to migrant workers and initiate a dialogue on the issue of migration within ILO, with the participation of international and multilateral organizations.

28. At the regional level, the Special Rapporteur wishes to draw the attention of the General Assembly to Advisory Opinion OC-18/03, on the juridical situation and rights of undocumented migrants, issued on 17 September 2003 by the Inter-American Court of Human Rights. In May 2002, pursuant to article 64.1 of the American Convention on Human Rights, Mexico requested an advisory opinion from the Court. In its advisory opinion, the Court examined the following specific issues submitted for its consideration: (a) obligation to respect and guarantee the human rights and fundamental nature of the principle of equality and non-

discrimination; (b) application of the principle of equality and non-discrimination to migrants; (c) rights of undocumented migrant workers; and (d) State obligations in the determination of migration policies in the light of the international instruments for the protection of human rights.

B. Recognition of the human rights of migrants

29. The information received on alleged violations of human rights, as well as the data gathered on official missions conducted during the period under review, have brought to light certain facts and trends that the Special Rapporteur would like to bring to the attention of the General Assembly.

30. The communications from the Special Rapporteur to governments show a steady deterioration of the human rights situation of migrants, particularly in the case of those with irregular administrative status. From the complaints of alleged human rights violations that have been received, it appears that the most frequent abuses against this group are those that occur in the context of discriminatory, xenophobic and racist practices, administrative detention of undocumented immigrants and different forms of exploitation of migrant workers. In her visits, the Special Rapporteur has noticed an increase in the pressures stemming from international migration and an aggravation of certain problems pertaining to the smuggling of migrants.

31. This situation contrasts with the scant attention given to the human rights of this very vulnerable group in debates on immigration policies. In exercising their sovereign right to regulate the entry, stay and movement of migrants and their policy on immigration, asylum and refuge, States should bear in mind the international obligations they have assumed in the area of human rights. In other words, States parties to the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child must guarantee to anyone who is in their territory and subject to their jurisdiction the rights recognized in those legal instruments, in keeping with the principle of equality and non-discrimination which is laid down in those treaties and which is, moreover, a general principle of international human rights law. All States parties to the International Covenant on Economic, Social and Cultural Rights should also undertake to guarantee the enjoyment of the rights set forth therein, with no discrimination whatsoever, particularly on the basis of national origin.[5]

32. Despite the fact that these basic rules of human rights are applicable to non-citizens, the actual circumstances of migrants, particularly those with irregular administrative status, do not match the ideas reflected in the aforementioned instruments. The Special Rapporteur has expressed on numerous occasions her profound concern at the denial of human rights to this group. It is of little use for a State to say that it agrees with the text of the human rights conventions when its legislation on aliens allows for discrimination in the application of those rights. This same concern is expressed in the preamble to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[6] which states that "the rights of migrant workers and members of their families have

not been sufficiently recognized everywhere and therefore require appropriate international protection."

33. It is essential to ensure the proper application and interpretation of these provisions aimed at guaranteeing that the rights and fundamental freedoms of migrants are respected in practice. Hence the importance of the progressive interpretation by the human rights treaty bodies of the rules contained in the instruments in question. These interpretations are embodied in a number of general comments and general recommendations, some of which refer explicitly to the obligations of States parties with respect to non-nationals. Nevertheless, for the purposes of this report, the Special Rapporteur will confine herself to mentioning briefly the principles established by the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, since it would be impossible to carry out an in-depth analysis in the limited space available.

34. In its general comment No. 15, the Human Rights Committee states that reports from States parties have often failed to take into account that each State party must ensure the rights in the Covenant "to all individuals within its territory and subject to its jurisdiction" (para. 1), as provided in article 2, paragraph 1, of the International Covenant on Civil and Political Rights. The Committee's experience in examining periodic reports shows that "in a number of countries other rights that aliens should enjoy under the Covenant are denied to them or are subject to limitations that cannot always be justified under the Covenant" (para. 2).

35. The Committee's general comment No. 18 states that "non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights" (para. 1). The general requirement of non-discrimination with respect to the rights guaranteed in article 2, paragraph 1, of the International Covenant on Civil and Political Rights "must be guaranteed without discrimination between citizens and aliens" (general comment No. 15, para. 2), except in the case of the rights of citizens and of aliens set forth in articles 25 and 13, in that order. The Committee states that "the Covenant gives aliens all the protection regarding rights guaranteed therein, and its requirements should be observed by States parties in their legislation and in practice" (ibid., para. 4). It should be borne in mind that the general guarantee provided in article 2 of the International Covenant on Civil and Political Rights is not the same as the right set forth in article 26 of the Covenant, which, as noted in the Committee's general comment No. 18, "prohibits discrimination in law or in fact in any field regulated and protected by public authorities", since it is concerned with "the obligations imposed on States parties in regard to their legislation and the application thereof". Thus, the scope of article 26 "is not limited to those rights which are provided for in the Covenant" (para. 12).

36. In its recent general recommendation XXX, the Committee on the Elimination of Racial Discrimination clarifies the responsibilities of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination with regard to non-citizens. In this general recommendation, the Committee addresses specific issues such as protection against hate speech and racial violence, access to citizenship, the administration of justice, expulsion and deportation of non-citizens and the enjoyment of economic, social and cultural rights by non-citizens. The Committee recommends the adoption of a number of measures to prohibit and eliminate racial discrimination in all its forms in regard to the

enjoyment of civil, political, economic, social and cultural rights of non-citizens. It stresses measures relating to labour and employment rights of non-citizen workers, as well as guarantees with regard to non-citizens who are detained or imprisoned.

37. The increasingly prevalent and disturbing practice of administrative detention of undocumented immigrants entails the violation of the principle of non-discrimination with regard to migrants with irregular status. Indeed, when these individuals are arrested by police and sent to detention centres without the possibility of appealing to a court to determine whether their detention is lawful, they are being discriminated against in the exercise of their basic right to freedom and legal security. At the same time, they are arbitrarily denied the right to effective recourse against their detention by police. This situation has become widespread as States have adopted and applied special legislation to combat terrorism, given that such legislation restricts or suspends the procedural guarantees that every detainee should enjoy.

38. A State may take action against persons who enter its territory without authorization, but such measures must respect the human rights of the persons detained, regardless of their migration status. Efforts are being made to have international human rights law establish the boundaries outside of which any detention, whether administrative or judicial, would be considered arbitrary. The existence of a rapid and effective appeals procedure entails the assumption of a guarantee in any situation where a detention has not been ordered by a judge, especially in cases of immigration-related detentions. Consequently, a judge should be able to monitor the material lawfulness of administrative detention and to decide whether or not it is in accordance with law, even when the detention occurs in the transit area of an airport. The Special Rapporteur considers that legal assistance must be available in such cases.

39. At the institutional level, the Working Group on Arbitrary Detention is paying special attention to this issue, both in its visits and in individual cases.[8] In her report to the Commission on Human Rights at its fifty-ninth session (E/CN.4/2003/85), the Special Rapporteur included a study on the human rights of migrants deprived of their liberty. In that report, she expressed her concern at the lack of guarantees to protect human rights during administrative detention of migrants with irregular administrative status, especially for purposes of expulsion (ibid., paras. 65-71). During her official missions, the Special Rapporteur has visited detention centres for immigrants with irregular status in order to determine whether adequate mechanisms were in place for submitting complaints and to determine what are the implications of such centres being managed by the private sector.

40. In brief, the importance of the principle of equality and non-discrimination in the formation of international human rights law relating to migration is reflected in the general comments and general recommendations of the bodies established under the aforementioned conventions.

41. At the regional level, the Inter-American Court of Human Rights has expressed similar views on the principle of equality and non-discrimination in its Advisory Opinion OC-18/03. The Court adds that States must respect and ensure the full and free enjoyment of human rights in the light of the general principle of equality and non-discrimination. Hence, if a State fails to comply with this general obligation and applies any discriminatory treatment, its non-compliance entails the international responsibility of the State (paras. 85-96).

42. The Special Rapporteur also endorses the view expressed in chapter VIII of the Advisory Opinion, which deals with the rights of undocumented migrant workers and states that:

> "... the migratory status of a person can never be a justification for depriving him of the enjoyment and exercise of his human rights, including those related to employment. On assuming an employment relationship, the migrant acquires rights as a worker, which must be recognized and guaranteed, irrespective of his regular or irregular status in the State of employment. These rights are a consequence of the employment relationship" (para. 134).

43. According to the Court, respect for labour rights applies to both the public and the private spheres (paras. 136-140). The State is "responsible for itself, when it acts as an employer, and for the acts of third parties who act with its tolerance, acquiescence or negligence, or with the support of some State policy or directive that encourages the creation or maintenance of situations of discrimination" (para. 152); therefore, "employment relationships between migrant workers and third party employers may give rise to the international responsibility of the State in different ways" (para. 153).

44. The Special Rapporteur considers that impunity for abuses and violations of the human rights of migrants will only be breached when States are held internationally responsible and those responsible are punished. She therefore urges the General Assembly to continue its work on the codification of the draft articles on responsibility of States for internationally wrongful acts (resolution 56/83 of 12 December 2001) submitted by the International Law Commission, and urges the Commission on Human Rights to do likewise with regard to the "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law" (E/CN.4/2000/62, annex).

45. The Special Rapporteur endorses some of the guidelines adopted by the international community in the Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001 (A/CONF.189/12, chap. I). The Programme of Action requests States "to promote and protect fully and effectively the human rights and fundamental freedoms of all migrants, in conformity with the Universal Declaration of Human Rights and their obligations under international human rights instruments, regardless of the migrants' immigration status" (para. 26) and urges them "to review and revise, where necessary, their immigration laws, policies and practices so that they are free of racial discrimination and compatible with States' obligations under international human rights instruments" (para. 30 (b)).

46. One of the legal consequences of the internationalization of human rights has been that the treatment afforded by a State to persons under its jurisdiction is now governed by international law, which also recognizes that people have individual rights. The gap between recognition of the rights of migrants under international human rights law and the reality on the ground is, therefore, one of the greatest challenges posed by international migration.

C. Towards a rights-based migration management

47. Exploring new forms of migration management is currently a priority on the international political agenda of the many intergovernmental consultative processes established to that end. The Special Rapporteur therefore considers that it would be a good idea to share with the General Assembly a number of thoughts on the matter.

48. The objective of these forums, which are generally informal in nature, is to adopt legally non-binding political frameworks that facilitate effective cooperation among States in the management of migratory flows. Consultative processes have given a multilateral perspective to migration management, which until recently has been dominated by bilateral agreements; they encompass almost all the regions of the world, with the exception of central and eastern Africa, the Middle East and the Caribbean. The most important of these forums include: Migration Dialogue for Southern Africa and Migration Dialogue for Western Africa; Regional Conference on Migration, also known as the Puebla Process, and South American Conference on Migration (Lima Declaration Process); Budapest Group and Conference of the Commonwealth of Independent States (CIS); Conference on Western Mediterranean Cooperation (Five plus five); Manila Process, Intergovernmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants, Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Conference); Intergovernmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America, and Australia.[9]

49. In addition, as the European Union completes its process of harmonizing immigration and asylum policies under the close watch of non-governmental organizations, two highly significant projects will publish their final reports in the coming months: the Berne Initiative and the Global Commission on International Migration. The former, which is backed by the Swiss Government and for which IOM serves as secretariat, seeks to be a forum for intergovernmental cooperation on migration management at the global level. On 2 and 3 July 2003, the Berne Initiative consultations were held in the Swiss capital; these consultations were the first step towards drawing up a framework of governing principles to facilitate cooperation among States with a view to managing international migration. This framework — known as the International Agenda for Migration Management — is being drawn up through a series of regional consultations during 2004 and will, in principle, be adopted at the end of the year during the Second International Symposium on Migration (Berne II). The Agenda will include a set of common principles on migration identified by States and other stakeholders, as well as a compilation of effective migration management practices.[10] Unlike the Berne Initiative, which is a State-owned process, the Global Commission on International Migration is an independent body, and its co-Chairs and commissioners carry out their duties with complete independence. The overall aim of the Commission, which was officially launched on 9 December 2003, is to provide the framework for the formulation of a coherent, comprehensive and global response to international migration. One of the key areas of its mandate, which was developed by a Core Group of States, is to analyse gaps in current migration policies. By mid-2005, the Global Commission will present, for the attention of the United Nations Secretary-General and other stakeholders, a series of recommendations aimed at strengthening international governance of migration at the national, regional and global levels.[11]

50. The Special Rapporteur considers that there are three key factors in managing migratory flows from a human rights perspective: first, an overall, long-term view of the phenomenon that takes account of its causes and effects; second, a dialogue process that establishes an appropriate framework for adopting migration policies that place individuals and their rights at the centre of legislation; and third, migration management based on the shared responsibility of States, i.e., intergovernmental cooperation and collaboration in which States meet their obligations towards migrants properly and in which the role of States varies depending on whether they are a source, transit or destination country.

51. The complex phenomenon of international migration responds to a simple principle: migratory flows are generated as a consequence of socio-economic inequalities and disparities in well-being and human rights. This has been highlighted by, inter alia, the Programme of Action of the International Conference on Population and Development held in Cairo in 1994[12] and, more recently, the World Commission on the Social Dimension of Globalization.[13] The Special Rapporteur considers that the causes of migration and the factors that encourage it, such as "migration fantasies", warrant particular attention. In addition, when addressing migration issues, it is important to remember that some factors inherent in the globalization process (e.g., the global communications revolution, the evolution of information technology and transport, and the growth of transnational communities) and new characteristics to international migration.

52. The scant importance given to the human rights of migrants in migration policy debates is reflected most clearly in the structure of these policies, which by and large focus on controlling migratory flows and regulating the presence of foreign nationals in the territory of the State, and on relations with sending States, all areas in which the human rights of immigrants are not the primary concern. Advisory Opinion OC-18/03 is also a core document in this area, as, according to the Inter-American Court of Human Rights, [American] States may not subordinate or condition the observance of human rights or the principle of equality before the law and non-discrimination to achieving the goals of its migratory policies, any act or omission to the contrary being inconsistent with the international human rights instruments (paras. 161-172). The Special Rapporteur considers that an analysis of the observations and recommendations of the human rights treaty monitoring bodies, and of the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, could be useful here. It should be pointed out that Part III of the Convention, entitled "Human rights of all migrant workers and members of their families", does not create any new rights for this group, but rather reaffirms the rights enshrined in the Universal Declaration of Human Rights and subsequently developed in the principal human rights treaties adopted by the United Nations, which have indeed been widely ratified. Moreover, the preamble to the Convention explicitly states that this reiteration reflects the belief that the rights of migrant workers and members of their families are not duly recognized everywhere, and that if their rights were more widely recognized, recourse to the employment of migrant workers with irregular administrative status would be discouraged.

53. It is common knowledge that migratory flows generate positive effects when properly managed. International migration is a factor of economic development and social progress; however, the way in which this is formulated publicly is worrying. Politicians and the media often portray immigrants as the solution to a series of issues affecting host societies, such as lack of manpower in some sectors of the

economy or problems stemming from the ageing of the population as a result of low birth rates. In accordance with this approach, migratory flows should therefore be managed on the basis of the number of immigrants "necessary" for the development of the economy of the host country. However, this instrumental view of immigration does not take into account that the reasons for migration are as many and as varied as the migrants themselves, nor does it conceive of the possibility that immigrants may wish to reside permanently in the host country. That may be why it is so difficult right now to imagine a political agenda on immigration that envisages (very necessary) discussions of the challenges posed to democracy by immigration, such as the inadequacy of the current model of citizenship. Moreover, an in-depth study should be carried out into the effects of the message being sent to the population of the host country through this political model of immigration management. The Special Rapporteur wishes to note that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopts a different approach, as it refers to migrant workers throughout as social beings with families and recognizes the important role that they play in the global economy, while emphasizing that they nonetheless belong to a highly vulnerable group.

54. During her visits, the Special Rapporteur has been able to witness the effects of the restrictive nature of some current immigration policies. In general, there are many foreign nationals living in transit and destination countries who, despite not having a residency permit, are nonetheless employed. Such people cannot regularize their status because they work in the shadow economy, but at the same time cannot find legal employment because of their irregular administrative status. The existence of such pockets of exclusion calls into question both the effectiveness and the political legitimacy of such policies. The Special Rapporteur welcomes recent efforts by a number of States to regularize the status of illegal immigrants within their territory who can prove that they are employed. Nonetheless, regularization procedures must be carried out with absolute respect for the human rights of such people so that they cannot be blackmailed if regularization is left to their employers.

55. The concept that immigration is a security issue has continued to gain ground since 11 September 2001 and has taken precedence over all other issues, including human rights. The erosion of rights sometimes caused by anti-terrorist measures affects immigrants in particular. The Special Rapporteur stresses that efforts to combat terrorism and organized crime must be solidly grounded in the rule of law and respect for human rights.

56. Combating the smuggling of migrants and trafficking in persons is on the agenda of all consultative processes on migratory management. The Special Rapporteur considers that such crimes need to be combated simultaneously, having noted that people who employ the services of criminal organizations involved in the illicit trafficking of immigrants run a high risk of being victims of trafficking themselves (see E/CN.4/2004/76). Providing potential emigrants with information on the risks of illegal migration and legal channels of entry into destination countries may help to combat the rise of illicit trafficking of immigrants. The Special Rapporteur calls on Member States to consider ratifying the United Nations Convention against Transnational Organized Crime and its additional protocols on the smuggling of migrants and trafficking in persons, and believes that these instruments can be supplemented by measures to safeguard the rights of the victims.[14]

57. The conditions on departure of migrants, the proper management of secure borders, and the interception, detention, deportation/repatriation and return of undocumented migrants are some of the areas in which cooperation between States is essential. The Special Rapporteur considers that source countries have an obligation to ensure that the rights of their nationals are respected during all stages of the migratory process, from a safe departure to a decent return. States of origin should therefore ensure access to effective consular assistance and protection by granting sufficient human, material and financial resources for that purpose. Consular authorities should have sufficient resources to be able to give particular attention to the protection of unaccompanied minors and to assist in the repatriation of victims of trafficking when they explicitly so request.[15]

58. Lastly, the Special Rapporteur urges States to improve the transparency of their consultative processes on migration management, which should also allow for the active participation of non-governmental organizations specializing in that area and other civil society stakeholders. The Regional Conference on Migration and the CIS Conference both had very positive results in this regard.[16]

V. Conclusions and recommendations

59. Through a concise description of the activities carried out during the period under review, the Special Rapporteur notes a continuing deterioration in the human rights situation of migrants and in particular those with irregular administrative status. The most frequent abuses against immigrants occur in the context of discriminatory, xenophobic and racist practices, the administrative detention of undocumented immigrants, and various forms of exploitation of migrant workers. During her visits, the Special Rapporteur observed an increase in migration pressures and a worsening of certain problems, such as the smuggling of migrants. The Special Rapporteur notes that this situation contrasts with the scant importance given to the human rights of this vulnerable group in discussions on immigration policies.

60. The Special Rapporteur welcomes those developments that took place during the period under review which in her view are helping to improve the protection of the human rights of migrants.

61. The Special Rapporteur considers that traditional ways of managing migratory flows have become obsolete now that immigration takes place in the context of globalization. Up to now the management of migratory flows has been based on the logic of the nation State; however, the extraordinary compatibility between globalization and international migration has led to the failure of immigration policies based on internal security and specific economic interests. Moreover, the phenomenon of migration highlights the existence of structural problems that cannot be resolved through ad hoc measures, much less unilateral ones. The Special Rapporteur would like to point out that, as long as disparities in development persist, immigration flows to rich countries and more prosperous developing countries will continue.

62. The Special Rapporteur is encouraged by the large number of consultative processes on migration management and recognizes the efforts being made in the context of various intergovernmental initiatives to find new ways of effectively managing the phenomenon and arriving at common positions that allow for

consensus in the matter. However, the Special Rapporteur is aware that these forums are a consequence of the gradual politicization of immigration.

63. The Special Rapporteur proposes a form of migration management that is stronger from a human rights perspective and based on the shared responsibility of States to fulfil their obligations towards migrants. The Special Rapporteur urges States participating in consultative processes to adopt management frameworks which encourage the adoption of comprehensive migration policies and legal instruments on immigration and asylum that place individuals and their rights at the centre of legislation. The management of migratory flows must go beyond simply managing the economic interests of States.

64. For this reason, States must ensure that their migration policies and domestic immigration laws (as well as their application) are in line with the principles laid down in international human rights law and with the human rights commitments they have made at the international level. This will require them to balance the sovereign right of States to define their migration policy with respect for and protection of the human rights and fundamental freedoms of all persons under their jurisdiction, regardless of their legal status. The Special Rapporteur considers that an analysis of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families could be useful here. The consular protection and assistance activities that can be carried out by source countries for the benefit of their nationals are also particularly important in terms of protecting the human rights of this group. A series of reflections and observations concerning consultative processes on migration management are included in the relevant paragraph.

65. The Special Rapporteur calls on Member States to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the United Nations Convention against Transnational Organized Crime, as well as its additional protocols against the smuggling of migrants and trafficking in persons. She considers that regularization processes for immigrants with irregular administrative status must be carried out with absolute respect for their human rights so that they cannot be blackmailed if regularization is left to their employers. Lastly, she urges the General Assembly to continue its work of codification of the draft articles on responsibility of States for internationally wrongful acts submitted by the International Law Commission, and urges the Commission on Human Rights to do likewise with regard to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law.

Notes

[1] See documents E/CN.4/2003/85/Add.2-3, E/CN.4/2001/83/Add.1 and E/CN.4/2002/94/Add.1.

[2] E/CN.4/2004/76/Add.1, paras. 15-16.

[3] International Standard Classification of Occupations, Group 9131, ISCO-88, ILO, Geneva.

[4] The terms of reference of the Geneva Migration Group may be found on the web sites of the six organizations.

[5] As of 31 August 2004, the International Covenant on Civil and Political Rights had been ratified by 152 countries; the International Covenant on Economic, Social and Cultural Rights, by 149; the International Convention on the Elimination of All Forms of Racial Discrimination, by 169;

the Convention on the Elimination of All Forms of Discrimination against Women, by 177; and the Convention on the Rights of the Child, by 192.

[6] Adopted by the General Assembly in its resolution 45/158, of 18 December 1990. The Convention entered into force on 1 July 2003; as at 31 August 2004, it had been ratified by 26 countries, namely, Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Kyrgyzstan, Libyan Arab Jamahiriya, Mali, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Timor-Leste, Uganda and Uruguay.

[7] At its twenty-seventh session, held in 1986, the Human Rights Committee adopted general comment No. 15, on the position of aliens under the Covenant; at its thirty-seventh session (1989), general comment No. 18, on non-discrimination; and at its sixty-seventh session (1999), general comment No. 27, on freedom of movement (article 12). At its sixty-fifth session (2004), the Committee on the Elimination of Racial Discrimination adopted general recommendation XXX, on discrimination against non-citizens, to replace general recommendation XI (1993). Other general comments and general recommendations of interest are the following: general comment No. 14, on the right to the highest attainable standard of health (art. 12), adopted by the Committee on Economic, Social and Cultural Rights; recommendation No. 21, on equality in marriage and family relations, by the Committee on the Elimination of Discrimination against Women; and general comment No. 3, on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child. All the general comments and general recommendations adopted by the treaty monitoring bodies may be found in document HRI/GEN/1/Rev.7.

[8] The Working Group's mandate was clarified and expanded by the Commission on Human Rights in its resolution 1997/50, whereby it included the question of immigrants and asylum-seekers held in administrative custody. See, for example, documents E/CN.4/2003/8/Add.2 and E/CN.4/2004/3.

[9] See the IOM Round Table on Managing Migration at the Regional Level, Geneva, 27 May 2002, http://www.iom.int/en/PDF_Files/mprp/Roundtable/Roundtable_E.PDF.

[10] See www.iom.int/berneinitiative.

[11] See www.gcim.org.

[12] A/CONF.171/13, chap. X.A., para. 10.1.

[13] In February 2004, the World Commission on the Social Dimension of Globalization, set up by ILO in 2002, published its report *A fair globalization: creating opportunities for all* (www.ilo.org/public/english/wcsdg/docs/report.pdf). The report states that global imbalances are morally unacceptable and politically unsustainable. In view of this situation, the Commission proposes a strategy for change based on a set of recommendations. Based on the conviction that fair rules of trade and capital flows need to be complemented by fair rules for the cross-border movement of people, the Commission states in its report that it is necessary to build a multilateral framework that provides uniform and transparent rules for the cross-border movement of people and balances the interests of both migrants themselves and of countries of origin and destination.

[14] See the *Recommended Principles and Guidelines on Human Rights and Human Trafficking* (E/2002/68/Add.1).

[15] On consular assistance before the International Court of Justice, see the Case concerning the Vienna Convention on Consular Relations (Paraguay v. United States of America), LaGrand Case (Germany v. United States of America) and the Case concerning Avena and other Mexican nationals (Mexico v. United States of America). At the regional level, see Advisory Opinion OC-16/99, of the 16th Inter-American Court of Human Rights, of 1 October 1999: *The right to information on consular assistance in the framework of the guarantees of the due process of law.*

[16] M. Grange, "Regional Migration Consultative Processes: Where is Civil Society?" in *Asian Migrant Yearbook 2002-2003*, Asian Migrant Centre Ltd. and Migrant Forum in Asia, pp. 56-58.